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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Fifty-ninth year

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the eleventh annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the Tribunal in accordance with article 34 of the Statute of the Tribunal (see S/25704 and Corr.1, annex) which states:

> "The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly."

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* A/59/150.

Letter of transmittal

13 August 2004

Excellencies,

I have the honour to submit the eleventh annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 dated 13 August 2004 to the General Assembly and the Security Council, pursuant to article 34 of the Statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Theodor **Meron**
President

President of the General Assembly
United Nations
New York, NY 10017

President of the Security Council
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Eleventh annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The eleventh annual report of the International Criminal Tribunal for the Former Yugoslavia covers the period from 1 August 2003 to 31 July 2004.

During the reporting period a number of initiatives were implemented to increase the efficiency and pace of the Tribunal's proceedings. Throughout the year the Tribunal's three Trial Chambers ran six trials simultaneously. The Trial Chambers examined six trials on the merits, two cases of contempt and rendered two judgements on the merits and nine sentencing judgements arising from nine guilty pleas. The Appeals Chamber disposed of a record number of appeals, comprising 17 interlocutory appeals, four appeals from judgement and one request for review.

The Tribunal pushed forward with its completion strategy, adopting internal reforms to ensure compliance with Security Council resolutions 1503 (2003) and 1534 (2004). On 6 April 2004, the judges of the Tribunal adopted an amendment to rule 28 (A) of the Rules of Procedure and Evidence to ensure that all indictments confirmed by the Tribunal meet the Security Council's directive that the indictments concentrate, prima facie, on one or more of the most senior leaders suspected of being most responsible for crimes within the jurisdiction of the Tribunal. The judges of the Tribunal adopted an amendment to rule 11 bis of the Rules to facilitate the referral of cases involving intermediate and lower level accused by increasing the jurisdictions available to receive its cases. The new amendment authorizes Trial Chambers to refer a case to any jurisdiction in which the accused could be tried fairly and where the death penalty will not be imposed.

The Tribunal also continued with its work in preparing the States in the region for the prosecution of war crimes cases. The Tribunal has worked closely with the Office of the High Representative for the Implementation of the Peace Agreement for Bosnia and Herzegovina on the establishment of a special chamber for war crimes prosecutions in the State Court of Bosnia and Herzegovina. A number of working groups were formed comprising representatives from the Office of the President, the Registry, the Office of the Prosecutor and the Office of the High Representative. Substantial achievements were made by the working groups in areas such as legal reform, witness protection and detention facilities. The Tribunal has also conducted a number of training seminars in Croatia with a view to ensuring the trial readiness of the courts in that region.

The Tribunal currently has a total of 25 judges from 23 nations: 16 permanent judges, including 2 judges from the International Criminal Tribunal for Rwanda (ICTR) serving in the Appeals Chamber and 9 ad litem judges.

On 17 November 2003, the permanent judges re-elected Judge Theodor Meron (United States of America) as President. Judge Fausto Pocar (Italy) was re-elected as Vice-President.

During the reporting period, the following changes in the membership of the Tribunal occurred. Permanent Judges Richard May (United Kingdom of Great

Britain and Northern Ireland), Claude Jorda (France) and Anthony Hunt (Australia) resigned. Three new permanent judges were appointed: Judge Jean-Claude Antonetti (France) on 1 October 2003, Judge Kevin Parker (Australia) on 4 December 2003, and Judge Iain Bonomy (United Kingdom) on 1 June 2004. Judges Wolfgang Schomburg (Germany) and Florence Ndepele Mwachande Mumba (Zambia) joined the Appeals Chamber. Ad litem Judges Sharon A. Williams (Canada), Rafael Nieto-Navia (Colombia) and Per-Johan Viktor Lindholm (Finland) finished their terms of service with the Tribunal. Four new ad litem judges were appointed: Judge Vonimbolana Rasoazanany (Madagascar) on 31 October 2003, Judge Bert Swart (Netherlands) on 1 December 2003, Judge Christine Van Den Wyngaert (Belgium) on 15 December 2003 and Judge Krister Thelin (Sweden) on 15 December 2003.

Throughout the reporting period, in furtherance of the Prosecutor's commitment to complete the investigation of the remaining unindicted high-level targets, investigations have been streamlined and made even more focused than in the previous years to concentrate on the highest-level political and military leaders responsible for having committed the gravest crimes. As a result of the investigative work, six indictments, involving 15 accused, were confirmed. Particular efforts were made to achieve the first major deadline foreseen by the completion strategy of the Tribunal's mandate, namely the completion by the end of 2004 of the investigation of all remaining suspects. All ongoing and pending investigations were regularly reviewed with a view to ensure that all resources adequately targeted the persons bearing the highest level of responsibility.

As the transfer of cases to domestic jurisdictions also forms part of the completion strategy of the Tribunal, the Prosecutor and her staff have not only identified the cases that could possibly be transferred to these jurisdictions, but they also have remained particularly active in supporting capacity-building and training the personnel of domestic courts throughout the territories of the former Yugoslavia.

The Office of the Prosecutor being also responsible for the prosecution of all cases before the Tribunal continued and even increased its pre-trial, trial and appeals activities throughout the reporting period. It was involved in the pre-trial phase of 17 cases, conducted 6 trials and 10 post-judgement appeals, as well as several interlocutory appellate procedures. Measures were adopted to enhance the management and operations of the Office, such as streamlining internal procedures and consolidating the use of electronic systems.

During the reporting period, nine accused surrendered voluntarily and one was arrested. The failure to arrest high-level accused, such as Radovan Karadzić, Ratko Mladić and Ante Gotovina, continues to be a major concern for the Prosecutor. Repeated appeals to Governments and entities in the region to pursue and arrest them have so far not borne results. Particular efforts were made to obtain the cooperation of countries upon which the Prosecutor relies to carry out its mandate, not only to obtain their support in arresting fugitives, but also to provide other necessary means including access to witnesses, archives and other crucial evidence.

The Registry, directed by Hans Holthuis, Registrar, David Tolbert, Deputy Registrar, and Kevin St. Louis, Chief of Administration, continued to exercise its responsibilities as stipulated by the Statute and Rules of Procedure and Evidence. These responsibilities comprise of managerial, administrative, and judicial support functions to facilitate the work of the Chambers, the Office of the Prosecutor and the defence.

The Registry continued to provide support in facilitating the conduct of six trials concurrently. It also maintained the detention facility with an average of 56 detainees, the Victims and Witnesses Section, a legal aid office, an interpretation and translation service, and court management functions. Moreover, the Registry provided human resources assistance, financial and budgetary support, information technology support, and general services. The Registry serves also as a communications channel for the Tribunal and provides legal support.

The Registrar began the implementation of an action plan to obtain the necessary number of places for enforcement of sentences and the relocation of protected witnesses and their families. An enforcement agreement was concluded with the United Kingdom in March 2004. A large number of States were approached in order to obtain agreements. A number of States have already communicated their willingness to enter into negotiations on agreements.

The Registrar continued to facilitate the implementation of the Tribunal's strategy to accomplish its mandate by 2010, with the closing of investigations at the end of 2004, the closing of trials at the end of 2008 and of appeals at the end of 2010. The completion strategy posed challenges in a number of areas including the transfer of cases to courts in the former Yugoslavia, human resource issues, scheduling issues, and legacy issues.

The limitation of the budget for the Investigations Section of the Office of the Prosecutor to the year 2004 instead of the biennial budget for the rest of the Tribunal, and the shortfall in contributions in late 2003 and 2004 and the associated recruitment freeze posed considerable managerial challenges.

For the biennium 2004-2005, the Secretary-General's initial budget proposals amounted to $262,283,100 gross ($234,808,500 net). This represented a decrease in real terms (before exchange rate and inflation adjustments) of approximately $1 million, compared with the 2002-2003 budget. The budget proposals were recosted to account for inflation and exchange rate fluctuations. Owing to the weakening of the United States dollar vis-à-vis the euro (which represents the primary currency of the Tribunal), the recosted budget amounted to $329,616,100 gross ($298,687,000 net) reflecting an increase of some $64 million in nominal terms.

In terms of staffing, the proposed budget contemplated a gradual reduction in posts in the Investigations Division resulting from the anticipated completion of all pre-indictment investigations by the end of 2004, in line with the completion strategy. In particular, a total of 61 posts were proposed for abolition in the Investigations Division, of which 18 were proposed for redeployment to trial and appeals work within the Office of the Prosecutor, the Chambers Legal Support Section and the Registry. After redeployments, 43 posts (61 minus 18) were proposed for abolition as from 2005.

After submission of the Tribunal's budget, by resolution 1503 (2003) of 28 August 2003, the Security Council decided to establish the new position of Prosecutor of ICTR. The report of the Secretary-General related to this resolution recommended the redeployment of 10 posts from the immediate office of the ICTY Prosecutor to ICTR (resulting in a reduction of approximately $2 million as compared with the original budget).

By its resolution 58/255, the General Assembly decided to appropriate $298,226,300 gross ($271,854,600 net) for the biennium 2004-2005 (Chambers,

$9,368,700; Office of the Prosecutor, $75,407,000; and the Registry, $212,611,700) representing a decrease in the net amount of some $28 million compared with the proposed level of resources. The decrease related mainly to the temporary withholding of the budget of the Investigations Division for 2005. In this regard, the Assembly requested the Tribunal to resubmit proposals for the resources of the Investigations Division in 2005 for review at its fall 2004 session. The staffing table approved for 2004 includes a total of 1,048 regular, assessed budget posts; a reduction of 10 posts vis-à-vis 2003 levels.

With respect to the financial situation of the Tribunal noted above, the Controller advised the Tribunal on 2 May 2004, that there had been a growing and significant gap between, on the one hand, the budget approved and the related assessments for the Tribunals, and, on the other, the collection of contributions by Member States. By the end of 2003, the Tribunals were in a cash deficit exceeding $70 million. Based on the growing deficit facing both Tribunals, the Department of Administration at Headquarters imposed a freeze on all recruitment and requested the Tribunals to review and defer all non-posts costs with a view towards reducing expenditures on all non-essential items. These measures are still in place as of the submission of this report.

There has been a significant increase in the vacancy rate throughout the Tribunal, impacting the Chambers, the Office of the Prosecutor and the Registry. As a measure of planning, the Tribunal is currently assessing its ability to continue conducting a full schedule of trials with the increasing impact of the freeze, particularly in regard to posts directly linked to the judicial process. Continued financial uncertainties may result in serious obstacles to achieving the completion schedule set by the Security Council.

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I. Introduction

1. The eleventh annual report of the International Criminal Tribunal for Yugoslavia (ICTY) since 1991 details the activities of the Tribunal for the period 1 August 2003 to 31 July 2004.

2. During the reporting period the Tribunal has continued to operate at full capacity by holding morning and afternoon sessions in each of its three courtrooms and conducting six trials at a time. Trials have concluded and judgements issued in two cases involving a total of four accused, and nine sentencing judgements have been issued. Since October 2003, 10 new accused have come into the custody of the Tribunal, 9 of whom were subject of new indictments submitted by the Prosecutor. Of the new individuals indicted, one pleaded guilty and was sentenced, and the remaining nine are expected to be tried in a total of three cases, all of which are presently in the pre-trial phase. On the whole the Tribunal is currently conducting pre-trial proceedings in 17 cases involving 33 accused in detention or on provisional release. Four accused, subject of an indictment confirmed and made public in October 2003, remain at large, bringing the overall fugitive count to 21.

3. Since August 2003, the Appeals Chamber has disposed of 17 interlocutory appeals, one request for review, and handed down four judgements on the merits.

4. Consistent with its obligations to the Security Council, the Tribunal has focused considerable effort on the implementation of its completion strategy submitted in 2002 by the then President of the Tribunal, Judge Claude Jorda. The Council endorsed the Tribunal's completion strategy in resolution 1503 (2003) of 28 August 2003. The completion strategy envisaged the completion of investigations by the end of 2004, completion of all trial work at first instance by the end of 2008, and completion of its work in 2010. To achieve the objectives of the completion strategy the Tribunal resolved to concentrate on the most senior leaders suspected of being most responsible for crimes within the jurisdiction of the Tribunal and to transfer cases involving intermediate and low-level offenders to national jurisdictions with the capacity to conduct fair trials.

5. During the reporting period the judges of the Tribunal took steps to amend the Rules of Procedure and Evidence to assist in the fulfilment of the completion strategy. Following the confirmation of the completion strategy by the Security Council in resolution 1534 (2004) of 26 March 2004, the judges of the Tribunal met in an extraordinary plenary session to amend the Rules of Evidence and Procedure to comply with paragraph 5 of that resolution, in which the Council called upon the Tribunal, in reviewing and confirming any new indictments, to ensure that any such indictment concentrate on the most senior leaders suspected of being most responsible for crimes within the jurisdiction of the Tribunal; and to amend rule 28 (A), which imposed an obligation on the Bureau to satisfy itself that the subjects of the new indictment met this threshold, on its face, prior to confirmation. A short time later a further rule amendment was adopted unanimously by all the judges of the Tribunal. The amendment to 11 bis of the rules expanded the scope of national jurisdictions to which cases could be referred, provided the Trial Chamber is satisfied that the national jurisdiction has the capacity to conduct a fair trial.

6. The Tribunal has also continued to work closely with the Office of the High Representative for the Implementation of the Peace Agreement in Bosnia and Herzegovina to establish a war crimes chamber within the State Court of Bosnia and

Herzegovina to receive cases from the Tribunal and to take over investigations of cases of lower-level accused not being pursued by the Tribunal. Various working groups have been established within the Tribunal with representatives from the Presidency, the Office of the Prosecutor and the Registry. Working closely with the Office of the High Representative, the working groups have advised on necessary procedural and substantive amendments to the domestic legislation, detention facilities and other management issues. The Tribunal has also been involved in a number of initiatives to build the judicial capacity of the Croatian national authorities. The Tribunal has been involved in intensive training seminars of Croatian judges and prosecutors likely to be involved in war crimes cases in the future. Experts from the Tribunal have travelled to the region giving lectures to local participants on various substantive and practical issues with respect to the domestic prosecution of war crimes. Additionally, the Tribunal recently hosted a visit, organized by the United Nations Development Programme, by seven judges of the newly established Department for War Crimes at the Belgrade District Court, designed to transfer knowledge and experience from Tribunal personnel to the members of the Court.

II. Activity involving the entire Tribunal

A. President

7. Judge Theodor Meron (United States of America), elected by the permanent judges on 27 February 2003, took up his duties as President of the Tribunal on 11 March 2003. President Meron was unanimously re-elected as President at an extraordinary plenary held on 17 November 2003. Following the lead of his predecessor President Claude Jorda, President Meron has vigorously advocated and pursued reforms of the Tribunal's structure and operation during the reporting period.

1. Reforms

(a) Internal reforms

8. The most significant internal reforms during the reporting period involved the amendments of rule 28 and rule 11 bis of the Rules of Procedure and Evidence. Both of these amendments were made to facilitate the implementation of the completion strategy and enforce the objectives of Security Council resolutions 1503 (2003) and 1534 (2004). The amendment to rule 28 was adopted as a means of implementing paragraph 5 of resolution 1534 (2003), which made clear that the Security Council wished the criterion of seniority to be incorporated in the reviewing and confirmation of any new indictments. To respond to this wish the judges of the Tribunal held a special plenary session to establish a mechanism within the Rules of Procedure and Evidence providing legal authority to the judges to comply with the directive. At the special plenary session, held on 6 April 2004, the judges of the Tribunal amended rule 28 (A) of the Tribunal's Rules of Procedure and Evidence to read as follows:

> "On receipt of an indictment for review from the Prosecutor, the Registrar shall consult with the President. The President shall refer the matter

to the Bureau which shall determine whether the indictment, prima facie, concentrates on one or more of the most senior leaders suspected of being most responsible for crimes within the jurisdiction of the Tribunal. If the Bureau determines that the indictment meets this standard, the President shall designate one of the permanent Trial Chamber judges for the review under rule 47. If the Bureau determines that the indictment does not meet this standard, the President shall return the indictment to the Registrar to communicate this finding to the Prosecutor."

9. The amendment requires the Bureau, a body comprised of persons elected by the judges, namely the President and Vice-President and the Presiding Judges of the three Trial Chambers, to satisfy itself that, in the light of the information provided by the Prosecutor, the indictment concentrates prima facie on one or more senior leaders suspected of being most responsible for crimes within the jurisdiction of the Tribunal. If the seniority criterion is satisfied, the normal review process commences under rule 47. If the subjects of the indictment do not meet the seniority criterion, the indictment is returned to the Prosecutor. The Prosecutor is not precluded from resubmitting the indictment with additional information regarding the seniority criterion. The judges determined that conferring this preliminary reviewing role to the Bureau was the most appropriate mechanism to ensure uniformity and speed in the new review process.

10. The amendment to rule 11 bis was adopted unanimously by the permanent judges of the Tribunal dispensing with the need to call a plenary in accordance with rule 6 (B). The purpose of the amendment was to expand the available national jurisdictions to which cases involving intermediate and lower-level accused could be referred and to make any transferral of cases subject to the requirement that the Trial Chamber satisfy itself that the trial of the accused would be fair and that the accused would not be subject to the death penalty. Prior to the amendment, rule 11 bis only allowed for the possibility of a referral to the national jurisdiction in which the alleged crimes occurred, or at the place at which the accused was arrested. The amended version allows for transferral to any national jurisdiction with the judicial capacity to afford the accused a fair trial and which does not have the death penalty.

(b) External reforms

11. During the reporting period the Tribunal was heavily involved in bringing to fruition the special chamber for war crimes prosecutions in the new State Court of Bosnia and Herzegovina. In February 2003, President Jorda entered into an agreement with the Office of the High Representative for the establishment of the new Chamber. Following the urgings of President Meron to the Peace Implementation Council on 29 March 2003 and 11 June 2003, the steering board endorsed the project on 12 June 2003.

12. During the reporting period, representatives from the President's Office, the Registry, the Prosecutor and the Detention Unit worked hand in hand with the Office of the High Representative to bring the project to fulfilment. An implementation task force was established, working groups were established and a management committee was formed to oversee the work of the working groups. A project manager was also appointed to coordinate the work of the working groups. Nine working groups were formed: renovation of building 100; legal framework; review and transfer of Tribunal cases; integration of the Tribunal's rules of the road unit

into the Prosecutor's Office of Bosnia and Herzegovina; staffing of the Court and the Prosecutor's Office of Bosnia and Herzegovina; establishment of a witness protection programme; detention and prison; trial monitoring; and war crimes investigations.

13. At the time of reporting, the legal framework working group had nearly completed its task and its proposed amendments to the Criminal Code of Bosnia and Herzegovina to facilitate the war chamber receiving Tribunal indictments, evidence collected by the ICTY and incorporation of international humanitarian law obligations undertaken by Bosnia and Herzegovina. These amendments are pending approval of the Bosnia and Herzegovina parliament. The detention and prison working group submitted a report on the detention facilities that needed to be established to receive accused persons for war crimes prosecution, and all other working groups were in the process of finalizing their tasks.

14. It is currently expected that the war crimes chamber will be fully operational by early 2005. However, this will depend on the availability of detention facilities that meet the minimum human rights standards. At present the availability of such a facility is dependent upon the Office of the High Representative obtaining the additional support that it considers necessary.

2. Diplomatic relations and other representation

15. During the reporting period President Meron made efforts to strengthen the ties of ICTY with the Governments of Bosnia and Herzegovina, Croatia and Serbia and Montenegro. Meetings were held between the President and government representatives and issues of cooperation with the Tribunal addressed in frank and open discussions. President Meron and Vice-President Pocar paid an official visit to Belgrade from 17 to 19 September 2003. President Meron also travelled twice to Bosnia and Herzegovina and accepted an invitation to visit Croatia in September 2004. The meetings between President Meron and the various government representatives from the region have resulted in greater efforts being made by those Governments to cooperate with the Tribunal.

16. At a diplomatic conference held on 30 October 2003 in The Hague, the President and the Office of the High Representative's Ambassador to Bosnia and Herzegovina, Ambassador Bernard Fassier, explained the establishment of the special war crimes chamber in Sarajevo and urged States to support the project. As a result of the conference over 16 million euros in contributions were pledged to support the start-up costs during the first two years of the project. Additional pledges were made to assist in the third to fifth funding years of the project.

17. At a diplomatic seminar, held on 20 July 2004 at which over 65 representatives from the diplomatic missions to the Netherlands attended, the members of the diplomatic corps were updated on the activities of the organs comprising the Tribunal. The President, Prosecutor and Registrar addressed the status of the completion strategy, including the possible transfer of some mid and lower level cases to national authorities; the Tribunal's financial situation and arrears in payments by Member States of their assessed contributions to the Tribunal; the arrest of fugitives and other issues of state cooperation; the status of the outreach programme; the enforcement of sentences and the relocation of witnesses.

18. President Meron addressed the Security Council and the General Assembly on 8 and 9 October 2003, respectively, in order to present the annual report of the Tribunal covering the period 1 August 2002 to 31 July 2003 (A/58/297-S/2003/829 and Corr.1). On 9 October 2003, the Prosecutor also addressed the Security Council. On 21 May 2004, President Meron submitted the six-monthly assessment and report of the President and the Prosecutor pursuant to Security Council resolution 1534 (2004), setting out in detail the progress made towards the implementation of the completion strategy of the Tribunal (S/2004/420). On 29 June 2004, the President and the Prosecutor reported to the Security Council about the progress of the completion strategy, commenting on the substance of the report submitted on 21 May 2004. Additionally, the President held an informal open session with General Assembly delegates to the Fifth and Sixth Committees.

3. Judicial activity

19. By virtue of the powers vested in him by the Statute, the Rules of Procedure and Evidence and the Practice Directions of the Tribunal, the President issued numerous orders in 2003, such as those assigning cases to the Trial Chambers, establishing the composition of the Appeals Chamber for particular cases and appointing pre-appeal judges. The President also rendered a number of decisions on requests for review of decisions of the Registrar in relation to the assignment or removal of Defence Council and communication bans.

20. President Meron granted requests for early release for Milan Simić on 27 October 2003, Simo Zaric on 21 January 2004 and Tihomir Blaškić on 29 July 2004. In each case, the prisoner had served at least two thirds of his sentence. On 24 June 2004, President Meron denied the request for early release of Miroslav Tadić. Currently, there is one request for early release under review by the President.

B. Bureau

21. Pursuant to rule 23, the Bureau is composed of the President, the Vice-President and the Presiding Judges of the three Trial Chambers. Following the direction of rule 23, the President consults the members of the Bureau on all major questions relating to the functioning of the Tribunal.

22. During the reporting period the Bureau met to discuss numerous issues, including the final assessment of judicial staff, staff retention concerns and problems of interpretation and translation. The proposed practice direction on the electronic disclosure system, allowing all rule 68 exculpatory documents to be made available to defence teams on CD-ROM, was discussed. The main aim of the proposed practice direction is to regulate access to the system and to place protections on the use of the information disclosed. The practice direction (IT/219/Rev.1), was subsequently issued on 6 November 2003. The electronic disclosure system does not replace the prosecution's existing disclosure obligations under the Rules.

23. Pursuant to the amended version of rule 28, discussed above, the Bureau reviewed two indictments submitted by the Prosecutor. In both instances the Bureau concluded that the seniority criterion was satisfied, and both indictments were referred for review and confirmation pursuant to rule 47 of the Rules of Procedure

and Evidence. Finally, the Bureau reviewed an application for disqualification of the judges presiding over the Maglov contempt case. The application was dismissed.

C. Coordination Council

24. Pursuant to rule 23 bis of the Rules of Procedure and Evidence, the Coordination Council consists of the President, the Prosecutor and the Registrar. If they are unavailable, the President, Prosecutor and Registrar may be represented by the Vice-President, Deputy Prosecutor and Deputy Registrar, respectively.

25. The Council provides a venue for the principal organs of the Tribunal to discuss regularly issues facing the efficient operation of the Tribunal with the aim of working together to ensure the smooth functioning of the Tribunal in the fulfilment of its mission. During the reporting period the Council met three times. It considered a range of matters, including the budget, staff retention, the electronic disclosure system and the completion strategy. In the hopes of ever greater efficiency, the Council discussed the prospect of further sharing of trial scheduling information so that when unexpected delays occur alternative cases could make use of the court rooms. Numerous working groups reported their findings to the Office of the High Representative about different legal matters pertaining to the State Court in Bosnia and Herzegovina.

26. Providing access to many of the public materials that have been archived by the Tribunal to non-governmental organizations and the public was considered. Different proposals were suggested, including giving non-governmental organizations and the public access to the judicial database and e-disclosure. These two databases represent 80 per cent of the Tribunal's documents. Of course, all protected material would be excluded. Recommendations to better coordinate press activities through the Office of the President and the occasional use of the press briefing room by the Association of Defence Counsel were also considered.

D. Plenaries

27. The judges held three extraordinary plenary sessions on 17 November 2003, 6 April 2004 and 4 May 2004, and two regular plenary sessions on 11 and 12 December 2003, the 29th plenary, and 28 and 29 July 2004, the 30th plenary.

28. Judge Theodor Meron (United States of America) was re-elected as President by the permanent judges at the extraordinary plenary session held on 17 November 2003. Judge Fausto Pocar (Italy) was re-elected as Vice-President.

29. At the regular plenary session of 11 and 12 December 2003, numerous issues were debated, including: how to maximize the use of courtroom space, the difficulties of coordinating the appointment of ad litem judges as closely as possible to the beginning of the trial to which they are assigned, how the uncertainty in the date of arrival of fugitives will effect the completion strategy, the War Crimes Chamber in Sarajevo, the appointment of new judges to the working group on consistency and coherence in sentencing, the re-allocation of staff between and within different sections of the Tribunal and the difficulties retaining the Tribunal's best staff given the impossibility of reclassifying certain positions. The Registrar discussed budgetary difficulties arising from the exchange rate between the euro and

the United States dollar, progress regarding the efficient and transparent management of defence counsel payment, the electronic judicial database electronic newsletters, and the judicial management performance report.

30. The extraordinary plenary session of 6 April 2004 was devoted to amending rule 28 as described below in the Rules Committee section.

31. The discussion at the extraordinary plenary session of 4 May 2004 centred on the completion strategy, specifically whether the judicial elections might be an obstacle to working efficiently towards the fulfilment of the completion strategy. Within the framework of the completion strategy, the plenary discussed the issues of who would be responsible for the enforcement and possible commuting of sentences and the protection of witnesses after the mandate of the Tribunal had passed.

32. In addition to the numerous rules that were amended (see paras. 33-39 below) at the regular plenary session of 28 July 2004, several working groups reported their progress to the plenary, including the working group on the assignment of counsel, the working group on consistency and coherence in sentencing and the working group on electronic surveillance. Amendments to the rules of detention were discussed and the President of the Association of Defence Counsel gave remarks to the plenary.

E. Rules Committee

33. The judicial membership of the Rules Committee has been changed during the current reporting period. Until December 2003 the Committee was chaired by Judge May, its other judicial members being the President, Judge Meron, and Judges David Anthony Hunt, Amin El Mahdi and Carmel A. Agius. Following the departure of Judge Hunt from the Tribunal in November and the resignation of Judge Richard May from the Rules Committee at the plenary in December 2003, President Meron and Judges El Mahdi and Agius continued their membership and Judges O-Gon Kwon and Kevin Parker joined the Rules Committee in January 2004 as judicial members. Judge Agius was then elected Chairperson of the Rules Committee.

34. The non-voting members of the Rules Committee are two representatives from each of the Office of the Prosecutor, the Registry and the Association of Defence Counsel. In addition, the level of secretariat support to the Rules Committee has been strengthened.

35. Since the 28th plenary, held in July 2003, the judges have met in plenary and amended the Rules of Procedure and Evidence on three occasions.

36. At the 29th session of the plenary, held in December 2003, the judges approved amendments to the following rules: rule 44, rule 65 ter (c) and (f), rule 67, rule 68 and rule 77. The most significant amendments were to rules 67 and 68, allowing for the introduction of a system of electronic disclosure of exculpatory and other relevant documents by the prosecution to the defence and removing the reciprocal obligation of disclosure by the defence to the prosecution when seeking access to certain classes of material held by the prosecution. All amendments made at this plenary can be found in Tribunal document IT/225.

37. At an extraordinary plenary held in April 2004, the judges amended rule 28 to address the criteria for submission of indictments to a confirming judge for review, thus reflecting the spirit of Security Council resolution 1534 (2004). The amendment made at this plenary can be found in Tribunal document IT/226.

38. At the 30th session of the plenary, held on 28 July 2004, the judges approved amendments to the following rules: rule 11 bis, rule 44, rule 45, rule 46, rule 50, rule 62 and rule 68. The most important of these amendments included clarification of the relationship between rules 68 and 70; clarification of the standard to be applied when an indictment is amended; and a package of amendments aimed at improving the standard of defence counsel appearing before the Tribunal.

39. In addition, an amendment to rule 11 bis was made by unanimous agreement of the judges pursuant to rule 6 (B).

III. Activity of the Chambers

A. Composition of the Chambers

40. Today, the Tribunal has a total of 25 judges. The Chambers of the Tribunal are composed of 16 permanent judges, 2 ICTR judges serving in the Tribunal's Appeal Chamber and nine ad litem judges.

41. The permanent judges are Theodor Meron (President, United States of America), Fausto Pocar (Vice-President, Italy), Patrick Lipton Robinson (Presiding Judge, Jamaica), Carmel A. Agius (Presiding Judge, Malta), Liu Daqun (Presiding Judge, China), Mohamed Shahabuddeen (Guyana), Florence Ndepele Mwachande Mumba (Zambia), Mehmet Güney (Turkey), Amin El Mahdi (Egypt), Alphonsus Martinus Maria Orie (Netherlands), Wolfgang Schomburg (Germany), O-Gon Kwon (South Korea), Inés Mónica Weinberg de Roca (Argentina), Jean-Claude Antonetti (France), Kevin Parker (Australia) and Iain Bonomy (United Kingdom).

42. The ad litem judges are Ivana Janu (Czech Republic), Chikako Taya (Japan), Volodymyr Vassylenko (Ukraine), Carmen Maria Argibay (Argentina), Joaquín Martín Canivell (Spain), Vonimbolana Rasoazanany (Madagascar), Bert Swart (Netherlands), Krister Thelin (Sweden) and Christine Van Den Wyngaert (Belgium).

43. Trial Chamber I is composed of three permanent judges, Judges Liu Daqun (presiding), Amin El Mahdi and Alphonsus Orie, and three ad litem judges, Judges Carmen Argibay, Volodymyr Vassylenko and Joaquín Martín Canivell.

44. Trial Chamber II is composed of three permanent judges, Judges Carmel Agius (presiding), Jean-Claude Antonetti and Kevin Parker, and six ad litem judges, Judges Ivana Janu, Chikako Taya, Vonimbolana Rasoazanany, Bert Swart, Krister Thelin and Christine Van Den Wyngaert. The Chamber consists of three sections. Section 1 of Trial Chamber II is composed of Judges Jean-Claude Antonetti (presiding), Vonimbolana Rasoazanany and Bert Swart; section 2 is composed of Judges Carmel Agius (presiding), Ivana Janu and Chikako Taya; and section 3 is composed of Judges Kevin Parker (presiding), Krister Thelin and Christine Van Den Wyngaert.

45. Trial Chamber III is composed of three permanent judges, Judges Patrick Robinson (presiding), O-Gon Kwon and Iain Bonomy and one ad litem judge, Judge Bert Swart.

46. Lastly, the Appeals Chamber is composed of Judges Theodor Meron (presiding), Fausto Pocar, Mohamed Shahabuddeen, Florence Ndepele Mwachande Mumba, Mehmet Güney, Wolfgang Schomburg and Inés Mónica Weinberg de Roca.

B. Principal activity of the Chambers

47. Table 1 below shows the cases dealt with by the three Trial Chambers at one stage or another during the reporting period.

Table 1

Trial Chambers: merit cases

Trial Chamber I	**Trial Chamber II**	**Trial Chamber III**
Ademi	*Brđanin*	*Banović*
Babić	*Čermak and Markač*	*Halilović*
Blagojević and Jokić (Dragan)	*Deronjić*	*Mejakić, Gruban, Fuštar, Knežević*
Češić	*Hadžihasanović and Kubura*	*Milošević*
Galić	*Mrkšić, Radić and Šljivančanin*	*Milutinović, Šainović, Ojdanić*
Jokić (Miodrag)	*Nikolić (Dragan)*	*Orić*
Kovačević	*Rašević*	*Simatović and Stanišić*
Krajišnik	*Šešelj*	
Limaj, Bala and Musliu	*Simić*	
Ljubičić	*Strugar*	
Martić		
Mrđa		
Nikolić (Momir)		
Norac		
Obrenović (Dragan)		
Prlić, Stojić, Praljak, Petković, Ćorić and Pušić		
Rajić		
Stanković		

Trial Chambers: contempt cases

Trial Chamber I	**Trial Chamber II**	**Trial Chamber III**
Confidential	*Maglov*	*Jovanović*

48. Table below shows the cases dealt with by the Appeals Chamber in 2003.

Table 2

Appeals Chamber

A. Appeals from judgement

Cases	**Appeals on the merits**
Blaškić	1
Deronjić	1 (ongoing)
Galić	1 (ongoing)
Jokić	1 (ongoing)
Kordić and Čerkez	1 (ongoing)
Krnojelac	1
Krstić	1
Kvočka et al.	1 (ongoing)
Martinović and Naletilić	1 (ongoing)
Nikolić Dragan	1 (ongoing)
Nikolić Momir	1 (ongoing)
Simić	1 (ongoing)
Stakić	1 (ongoing)
Vasiljević	1

B. Interlocutory appeals

Cases	Interlocutory appeals
Blagojević et al.	1
Brđanin and Talić	1
Hadžihasanović and Kubara	1
Halilović	1
Limaj, Bala and Musliu	3
Mejakić et al.	1 (ongoing)
Milošević	3
Milutinović et al.	2
Nikolić (Dragan)	1
Šešelj	1 + 1 (ongoing)
Stanišić and Simatović	2 (ongoing)
Confidential	3

C. Review

Cases	Requests for review
Confidential	1

1. Trial Chambers

49. The Tribunal has three courtrooms, and normally six trials are in session at any time, with three trials sitting in the morning and three in the afternoon. During the reporting period, the Trial Chambers worked on 35 merits cases and 5 cases of contempt and rendered 2 final judgements on the merits and 9 sentencing judgements arising from guilty pleas.

(a) Merits cases

(1) Ademi case

50. General Rahim Ademi surrendered voluntarily to the Tribunal in July 2001 and pleaded not guilty to two charges of crimes against humanity, including persecution,

and to three counts of violations of the laws and customs of war in relation to crimes committed by Croat forces under his authority (see art. 7 (3) of the Statute) against civilian Serbs in the "Medak pocket" in Croatia from 9 September 1993 to about 17 September 1993. The accused was provisionally released on 20 February 2002 and has subsequently complied with the Chamber's order for regular appearances before the authorities in Croatia. The pre-trial briefs were submitted last year in June and July 2003 and the case has been ready for trial ever since.

51. However, the Prosecutor had announced as early as in July 2003 that it intended to co-indict other perpetrators of the crimes charged in the Medak pocket, and she had therefore asked the Chamber to defer the trial against General Ademi until the new indictments were brought relating to his case. On 11 May 2004, the Prosecutor filed an indictment against Colonel Mirko Norac and sought on 27 May 2004 to join the indictments against General Ademi and Colonel Norac. On 30 July 2004, Trial Chamber I granted the joinder application.

(2) Babić case

52. Milan Babić held various political positions in the Serb dominated part of Croatia known as Krajina, culminating with his appointment as president of the self-declared republic of Krajina from December 1991 to February 1992, during which time he was part of a joint criminal enterprise to forcefully remove the non-Serb population from Krajina. During his testimony in the trial against Slobodan Milošević before the Tribunal in November 2002, Mr. Babić provided information which led the Prosecutor to file an indictment against him in November 2003 for one count of persecution as a crime against humanity and four counts of murder, cruel treatment, wanton destruction of cities and destruction of religious institutions etc., as violations of the laws and customs of war. He surrendered voluntarily to the Tribunal and agreed to cooperate with the prosecution.

53. On 12 January 2004, the Prosecutor and Milan Babić filed a joint plea agreement, in which he pleaded guilty to the count of persecution as an aider and abettor of a joint criminal enterprise. In exchange for cooperation with the prosecution in other cases and for his guilty plea, the Prosecutor recommended a sentence not exceeding 11 years imprisonment. After examination of the plea agreement and the attached statement of facts, the Chamber expressed doubts about the legal characterization of Mr. Babić's acts, and he then changed his plea. He pleaded guilty on 27 January 2004 to one count of persecution on political, racial and religious grounds as a crime against humanity as a co-perpetrator in a joint criminal enterprise.

54. The parties filed their sentencing briefs on 22 March 2004, and the sentencing hearing took place on 1 and 2 April 2004. On 29 June 2004, Mr. Babić was sentenced by Trial Chamber I to 13 years imprisonment. Mr. Babić subsequently appealed the sentence, and the appeal is pending before the Appeals Chamber.

(3) Banović sentencing

55. On 26 June 2003, Trial Chamber III accepted a plea of guilty by Predrag Banović to one count of persecution, a crime against humanity punishable under articles 5 (h) and 7 (1) of the Statute, pursuant to a plea agreement under rules 62 bis and 62 ter. In consideration of Mr. Banović's guilty plea, the prosecution

withdrew the other four counts in the indictment against him. The sentencing hearing was conducted on 3 September 2003.

56. The case against the accused concerned events at the Keraterm camp, located in the Municipality of Prijedor, in the north-western region of Bosnia and Herzegovina. Detainees at the camp suffered brutal, inhumane and degrading conditions during their confinement, in addition to humiliation, harassment and physical and psychological abuse. Mr. Banović was a guard at the Keraterm camp, without any rank during the relevant time period. The accused acknowledged his participation in five murders and the beating of 27 other inmates.

57. On 28 October 2003, the Trial Chamber sentenced Mr. Banović to eight years' imprisonment. Judge Robinson appended a separate opinion.

(4) Blagojević and Jokić (Dragan) case

58. The prosecution continued the presentation of evidence in the trial against Colonel Vidoje Blagojević and Captain Dragan Jokić, charged in a joint indictment with crimes alleged to have been committed following the fall of the Srebrenica "safe area" in July 1995. The trial commenced on 14 May 2003. Colonel Blagojević was charged in the amended joint indictment with complicity in genocide, crimes against humanity (extermination, murder, persecutions and inhumane acts (forcible transfer)) and violations of the laws or customs of war (murder). Captain Jokić was charged with extermination, murder and persecutions, as crimes against humanity and murder as a violation of the laws or customs of war. The trial is being heard by Trial Chamber I, section A.

59. The prosecution's case concluded on 27 February 2004, during which time the Trial Chamber heard the evidence of 48 viva voce witnesses, three of whom were only called for cross-examination, and admitted the evidence of 47 witnesses pursuant to rule 92 bis of the rules. Among the witnesses heard by the Trial Chamber were the two former co-accused, Momir Nikolić and Dragan Obrenović, who had both pleaded guilty (see below). Additionally, evidence provided by more than 15 experts from fields such as anthropology, demographics, military affairs and forensic pathology, was admitted in the form of reports and transcripts of former testimony. More than 800 exhibits were admitted on behalf of the prosecution during its case.

60. The defence for both Colonel Blagojević and Captain Jokić filed motions pursuant to rule 98 bis for the entry of judgement of total acquittal on the ground that the prosecution had not proven their participation in the crimes charged in the indictment. The Trial Chamber granted each motion in part, entering a judgement of acquittal for certain modes of liability for five of the six counts brought against Colonel Blagojević and for each of the four counts brought against Captain Jokić.

61. The defence case for Colonel Blagojević commenced on 14 April 2004 and concluded on 25 June 2004, during which time 43 witnesses testified viva voce and the evidence for 18 witnesses was admitted pursuant to rule 92 bis. Two expert reports were admitted pursuant to rule 94 bis. The defence case for Captain Jokić commenced on 1 July 2004 and concluded on 23 July 2004, during which time 13 witnesses were heard, including the accused, and three witness statements were admitted pursuant to rule 92 bis.

62. During the presentation of evidence on behalf of both the prosecution and the defence, the Trial Chamber granted requests for protective measures, including face distortion and the use of a pseudonym, for 28 witnesses. To assist both parties in securing the attendance of witnesses in their cases, the Trial Chamber issued 28 orders for safe conduct and 29 subpoenas ad testificanda pursuant to rule 54 of the rules. The Trial Chamber was assisted in the service of these orders and subpoenas by the authorities of the Republika Srpska, the Republic of Bosnia and Herzegovina, and Serbia and Montenegro. Additionally, the Trial Chamber requested the assistance of the Netherlands in securing the attendance of one witness on behalf of the Blagojević defence, namely former commander of the Netherlands battalion of the United Nations Protection Force (UNPROFOR), Colonel Thomas Karremans.

63. During the reporting period, the Trial Chamber issued approximately 35 written decisions and orders. More than 140 oral decisions and orders were rendered by the Trial Chamber.

64. The Trial Chamber held two motion hearings: a hearing pursuant to rule 50 to hear additional submissions on the prosecution's motion to amend the indictment such that the charge of complicity in genocide be replaced by a charge of aiding and abetting genocide, and a hearing pursuant to rules 84 bis and 85 in response to Colonel Blagojević's interventions during trial that he would like to appear as a witness in his case. The Trial Chamber subsequently denied the prosecution's motion in relation to the first issue; the matter of whether and in what capacity Colonel Blagojević may address the Trial Chamber is still pending. Additionally, one meeting was convened by the senior legal officer pursuant to rule 65 ter (D) to discuss the prosecution's motion to take judicial notice of adjudicated facts and documentary evidence with the parties. The motion was subsequently granted in part.

65. Closing arguments are scheduled for the end of September 2004 and the Trial Chamber intends to render its judgement in December 2004.

(5) Brđanin case

66. Radoslav Brđanin is charged with genocide; complicity in genocide; extermination; wilful killing; deportation; inhumane acts (forcible transfer); persecution; destruction or wilful damage done to institutions dedicated to religion; wanton destruction of cities, towns or villages, or devastation not justified by military necessity; and unlawful and wanton extensive destruction and appropriation of property not justified by military necessity. The trial commenced on 23 January 2002. The case is being heard by Trial Chamber II, Judges Agius (presiding), Janu and Taya. During the current reporting period, the prosecution's case closed, the entire defence case was presented and closing arguments were heard. Judgement is expected to be rendered at the end of August 2004.

67. In the period from 1 August 2003 to 21 October 2003, the final two prosecution witnesses were heard by the Trial Chamber. During the defence case (21 October 2003 until 9 February 2004), a total of 19 witnesses were heard by the Trial Chamber and 2 written statements were admitted pursuant to rule 92 bis. Following the close of the defence case, the prosecution brought back one witness pursuant to an order of the Trial Chamber and called one further witness in rebuttal. The Trial Chamber called one witness proprio motu. Closing arguments were heard from 19 to 22 April 2004.

68. One major substantive issue stands out from the numerous decisions taken on a broad range of procedural issues during the present reporting period. Following the close of the prosecution case, the defence submitted on 22 August 2003 a partly confidential motion for judgement of acquittal pursuant to rule 98 bis, to which the prosecution responded. The Trial Chamber delivered its oral decision on 9 October 2003, followed by a written decision on 28 November 2003. The decision granted the defence motion insofar as the accused was acquitted of count 1 (genocide) of the indictment in the context of the third category of joint criminal enterprise, and certain factual allegations were struck out with respect to four of the municipalities. The decision dismissed the remaining issues raised in the defence motion, with Judge Janu dissenting in part, favouring the acquittal of the accused on counts 1 (genocide) and 2 (complicity in genocide). The prosecution subsequently filed the sixth amended indictment to comply with the ruling of the Trial Chamber Certification for appeal was granted pursuant to rule 73, and the prosecution subsequently appealed the rule 98 bis decision. The Appeals Chamber upheld the prosecution's appeal and reinstated count 1 (genocide) with respect to the third category of joint criminal enterprise, finding that the Trial Chamber had erroneously conflated the mens rea requirements for genocide with the mental requirement of the mode of liability.

(6) Čermak and Markač case

69. The indictment against Ivan Čermak and Mladen Markač was confirmed by Judge Parker on 24 February 2004. The accused are both charged with crimes against humanity and violations of the laws or customs of war for offences allegedly committed in the course of and after Operation Storm between 4 August and 15 November 1995 against the Serb population from the Krajina region of Croatia. These charges include: persecutions, murder, plunder of property, wanton destruction of cities, towns or villages, deportation and forced displacement and other inhumane acts.

70. The accused were transferred to the seat of the Tribunal on 11 March 2004. They had their initial appearance on the following day before Judge Agius and pleaded not guilty to all seven counts against them. The case is currently in the pre-trial phase before Trial Chamber II with Judge Parker as the pre-trial judge. Among the decisions issued by the Trial Chamber are a decision dated 1 April 2004 granting protective measures to victims and witnesses and a decision dated 29 April 2004 denying both accused's motions for provisional release. In July 2004 both accused filed motions for provisional release and motions alleging defects in the form of the indictment.

(7) Češić case

71. Following his arrest by the Serbian authorities on 25 May 2002, police officer Ranko Češić was transferred to the Tribunal on 17 June 2002. On the basis of his individual criminal responsibility under article 7 (1) of the Statute, the indictment charges Officer Češić with six counts of violations of the laws or customs of war (art. 3, murder; humiliating and degrading treatment) and six counts of crimes against humanity (art. 5, murder and rape) relating to his acts while serving as a prison camp guard at the Luka Camp in Brčko in Bosnia and Herzegovina. At the initial appearance of the accused on 20 June 2002, he pleaded not guilty to all charges. The case was assigned to Trial Chamber I.

72. On 7 October 2003, however, Officer Češić and the Prosecutor filed a joint plea agreement in which he pleaded guilty to all 12 counts charged in the indictment. The Trial Chamber, being satisfied that the plea was voluntary, informed and unequivocal, and that there was a sufficient factual basis for the crimes as well as for Češić's participation therein, entered a finding of guilt on that same day. The parties filed their sentencing briefs on 12 November 2003 and the sentencing hearing was held on 27 November 2003 at which time further submissions were made by the Prosecutor. After the hearing, the parties filed further material. On 11 March 2004, the Chamber sentenced Officer Češić to a single sentence of 18 years of imprisonment.

(8) Deronjić case

73. On 30 September 2003, Miroslav Deronjić entered a plea of guilt to a second amended indictment, which incorporated the six counts charged in the previous indictment against the accused into a single charge of persecutions under article 5 of the Statute. The underlying criminal conduct remained essentially the same and concerned the accused's participation in the attack on the village of Glogova in the municipality of Bratunac in eastern Bosnia on 9 May 1992, and the consequent killings, destruction of property and forcible displacement of Glogova's predominantly Bosnian Muslim population.

74. The Trial Chamber, comprising Judges Wolfgang Schomburg (presiding), Carmel Agius and Florence Mumba, proprio motu requested the Registry to appoint an expert in psychology to prepare a report on the accused's socialization. With the consent of the parties, Dr. Najman's report was admitted into evidence without her having to testify. The Trial Chamber also requested the prosecution to provide additional details relating to the accused's cooperation. An expert report on comparative sentencing practices and ranges prepared by Professor Ulrich Sieber in connection with the Dragan Nikolić case was also entered into evidence.

75. The sentencing hearing was held over a two-day period commencing on 27 January 2004. Inter alia, the complete transcripts of the accused's prior testimony in cases before the Tribunal were admitted into evidence. Furthermore, the accused himself testified at the sentencing hearing. It was on the basis of his testimony that the Chamber was able to clarify the factual basis for the crime and the accused's participation in them. It was during the sentencing hearing, therefore, exceptionally, that the Chamber entered a finding of guilt against the accused in relation to the charge of persecutions.

76. A continuation of the sentencing hearing was held on 5 March 2004. The need to continue the sentencing hearing arose from the Chamber's concern that substantial and material discrepancies existed in relation to: the factual basis supporting the guilty plea, the accused's testimony at the sentencing hearing, all of his prior testimony and statements. In the course of the further hearing, all discrepancies were resolved to the satisfaction of the Chamber.

77. On 30 March 2004, the Trial Chamber issued its sentencing judgement. The Chamber entered a single conviction against the accused for persecutions, a crime against humanity and sentenced him, by majority, Judge Schomburg dissenting, to 10 years' imprisonment. In his dissent, Judge Schomburg held that the sentence imposed by the majority was not proportional to the crime and that the accused deserved a sentence of no less than 20 years' imprisonment.

(9) Galić case

78. The trial of General Stanislav Galić began before Trial Chamber I on 3 December 2001 with Judges Orie (presiding), El Mahdi and Nieto-Navia. General Galić was charged, on the basis of a campaign of shelling and sniping on the town and inhabitants of Sarajevo from about 10 September 1992 to about 10 August 1994, with crimes against humanity and violations of the laws and customs of war, including infliction of terror. The Trial Chamber heard 117 witnesses during the prosecution case and 51 witnesses during the defence case. The trial closed on 9 May 2003. The judgement was rendered on 5 December 2003. By a majority General Galić was sentenced to 20 years of imprisonment.

79. Judge Nieto-Navia filed a separate and partially dissenting opinion, challenging the majority's finding of certain facts as well as some of the legal findings, and recommending that Galić be sentenced to 10 years of imprisonment.

(10) Hadžihasanović and Kubura case

80. In the third amended indictment dated 26 September 2003, Enver Hadžihasanović and Amir Kubura were charged with a number of crimes pursuant to article 3 of the Statute, violations of the laws or customs of war, namely two counts of murder, two counts of cruel treatment, one count of wanton destruction of cities, towns or villages not justified by military necessity, one count of destruction or wilful damage of institutions dedicated to religion, and one count of plunder of public and private property. The alleged crimes were committed in central Bosnia between January 1993 and January 1994. All the charges are based on article 7 (3) of the Statute alleging command responsibility. Enver Hadžihasanović held the position of commander of the 3rd corps of the Army of Bosnia and Herzegovina, before becoming chief of the Supreme Command Staff, and Brigadier General of the Army of Bosnia and Herzegovina in December 1993. Amir Kubura was the Assistant Chief of Staff for Operations and Instruction matters of the 7th Muslim Brigade of the Army of Bosnia and Herzegovina 3rd Corps, then the Chief of Staff of that Brigade; he is then alleged to have acted as a substitute commander of that Brigade, before being appointed its Commander on 16 March 1994. The indictment alleges that some of the crimes were committed by "foreign Muslim fighters" or "Mujahedins" alleged to have been under the control of the Army of Bosnia and Herzegovina and of the accused.

81. During this reporting period, Judge Florence Mumba, Judge Wolfgang Schomburg, and Judge Jean-Claude Antonetti were consecutively pre-trial judge from August 2003 until the start of trial. The prosecution filed its pre-trial brief and related filings pursuant to rule 65 ter on 10 October 2003, and the defence for both accused filed their respective pre-trial briefs on 3 November 2003. The accused, which were on provisional release from 19 December 2001, were ordered on 31 October 2003 to surrender to the custody of the Tribunal on 27 November 2003. The pre-trial conference, which concluded the pre-trial phase of the proceedings, was held on 28 November 2003. The trial started on 2 December 2003. The bench is composed of Judges Jean-Claude Antonetti (presiding), Vonimbolana Rasoazanany and Bert Swart.

82. As reported in the last annual report, during the pre-trial phase of the case, on 16 July 2003 the Appeals Chamber issued a decision, inter alia finding that the doctrine of command responsibility was applicable in the context of an internal

armed conflict under customary international law as of 1991. Once this issue was decided, the Trial Chamber considered motions concerning the form of the indictment. On 15 August 2003, the prosecution filed a fresh motion for leave to amend the amended indictment, taking account of the Appeal Chamber decision of 16 July 2003 and incorporating all amendments previously sought in its motion dated 25 March 2003. In its decision on 17 September 2003, the Trial Chamber inter alia ordered the prosecution to provide further details as to specific units involved in some of the crimes described in the amended indictment; and to further specify the exact position and role of the Mujahedins. The inclusion of new charges against Kubura was allowed by the Trial Chamber. The Trial Chamber, on 30 September 2003, denied Amir Kubura's application for certification of its decision of 17 September 2003. The Trial Chamber denied on 18 November 2003, the preliminary motion filed by Amir Kubura on 7 November, which requested that the new charges be struck for want of precision. Amir Kubura pleaded not guilty to those new charges at a further initial appearance on 28 November 2003.

83. Both during pre-trial and trial, the defence, following requests to the Appeals Chamber and other Trial Chambers, was granted access to the confidential material in cases related to events in central Bosnia in July 2003 (*Blaskic*), October 2003 (*Rajic*), and November 2003 (*Kordic*). In a motion dated 26 April 2004, the defence sought access to the confidential material from the *Prlic et al.* case, which indictment was made public on 5 April 2004.

84. By motion filed on 2 December 2002, the defence sought access to the archives of the European Union Monitoring Mission (EUMM). On 12 September 2003, the Trial Chamber rejected the defence's request that the Trial Chamber's decision of 28 March 2003 be implemented, finding that the defence's request was too broad. On 25 September 2003, the Trial Chamber rejected the defence motion for certification of its decision of 12 September. Following further consultations and exchange of letters between the defence, the prosecution and EUMM, including Javier Solana, Secretary-General of the Council of the European Union and High Representative for the Common Foreign and Security Policy, the Trial Chamber issued a decision on 15 December 2003, in which it found that the documents requested were sufficiently identified. It requested Mr. Solana to provide the defence with access to the documents, subject to redactions as necessary. Pending defence access to the EUMM material, the calling of prosecution witnesses who were former members of ECMM was postponed. The matter was resolved in April 2004, when the defence gained access to EUMM material it had not previously had access to.

85. Since the start of trial until the close of the prosecution case on 23 July 2004, 99 prosecution witnesses, and one court witness called pursuant to rule 98 of the rules, were heard by the Trial Chamber. Of those, 24 witnesses were granted protective measures, including the use of a pseudonym. The Trial Chamber, at the request of the prosecution, declared one of its witnesses hostile during his testimony on 20 and 21 April 2004. The Trial Chamber admitted in addition written statements taken pursuant to rule 92 bis of 21 prosecution witnesses in lieu of oral testimony and decided to admit the statements of 4 additional witnesses subject to defence cross-examination. The defence case is expected to commence at the beginning of October 2004.

86. During the trial, a large variety of legal procedural issues were raised before the Chamber. To mention only a few:

(a) The Trial Chamber issued a decision upholding a previous oral decision on 4 December 2003, that the prosecution was barred from showing one of its witnesses, written extracts from his previous statement to the prosecution during examination in chief to refresh his memory. Certification to appeal the decision was granted in the same decision, issued on 19 December 2003. The Appeals Chamber reversed the Trial Chamber's decision on 2 April 2004.

(b) On 16 March 2004, the Trial Chamber, on a defence motion on the scope of prosecution examination of its witnesses, ruled that, in the absence of an explicit mention in the third amended indictment, a charge of cruel treatment did not include allegations of inhuman treatment consisting of the use of detainees to carry out forced labour (trench digging).

(c) On 20 April 2004, after requesting the defence to provide more specifics as to the direct and indirect relevance of the 206 facts taken from judgements in other cases before the Tribunal, the Trial Chamber issued a final decision in which it took judicial notice of 4 facts, considering that the other facts were not distinct, concrete, identifiable or included legal characterizations, or were the object of appeal, or were reasonably challenged by the prosecution.

(d) And on 7 April 2004, the Trial Chamber admitted 262 non-contested documents on the prosecution exhibit list. In relation to 659 prosecution documents listed on its exhibit list which were contested by the defence, the Trial Chamber ordered the prosecution to provide them to the Trial Chamber, heard arguments of the parties on their admissibility and issued several oral orders requesting the prosecution inter alia to provide information as to the origin, source and authenticity of the documents. On 17 May, the Trial Chamber, ordered the prosecution to call additional witnesses and undertook a review of the originals of the documents. Contested videotapes listed on the prosecution exhibit list were broadcast in public session from 2 to 7 June 2004. The Trial Chamber issued its decision on the admissibility of the contested material confidentially on 16 July 2004; the public version was filed on 27 July 2004. Most of the contested documents were admitted by the Chamber.

87. On 18 January 2004, a duty Judge granted Mr. Hadžihasanović provisional release from 18 to 20 January 2004 to attend the funeral of his brother in Bosnia and Herzegovina. On 12 March 2004, Mr. Kubura was granted provisional release from 13 to 15 March to attend the funeral of his mother in Bosnia and Herzegovina. Enver Hadžihasanović and Amir Kubura waived their right to be present at the trial proceedings for the duration of their release.

(11) Halilović case

88. The accused, Sefer Halilović, was charged under article 7 (3) of the Statute with one count of violation of the laws or customs of war (murder) punishable under article 3 of the Statute. The accused was granted provisional release on 13 December 2001.

89. On 26 February 2004, the President assigned Judge Bert Swart to replace Judge Richard May, considering the need to expedite the proceedings in this case, and determined that the Trial Chamber in this case would be composed of Judge

Robinson, Judge Kwon and Judge Swart. Subsequently, upon appointment of Judge Iain Bonomy, by the Secretary-General of the United Nations as a permanent judge of the Tribunal, the President assigned Judge Bonomy to the present Trial Chamber. As a consequence, the President assigned Judge Bonomy to replace Judge Swart and determined that the Trial Chamber in this case would, from 1 August 2004, be composed of Judge Robinson, Judge Kwon and Judge Bonomy. Pre-trial preparation is continuing under the direction of the pre-trial judge, Judge Kwon of Trial Chamber III. The prosecution filed its pre-trial brief in mid-June 2002 and the defence filed its pre-trial brief on 25 March 2003. Trial was scheduled to commence in January 2004 and a pre-trial conference was convened in December 2003. However, owing to the lack of an available Trial Chamber at this time, the commencement of trial has been postponed indefinitely.

90. Subsequent to the change of counsel as discussed in last year's report, issues regarding counsel continued to arise during this reporting period. On 10 September 2003, the Registrar assigned Mr. Guenaël Mettraux as co-counsel. On 6 October 2003, lead counsel Mr. Ahmed Hodžić, who had been assigned on 20 February 2003, requested the withdrawal of his assignment, citing his inability to prepare for trial by the date indicated by the Trial Chamber. On 3 November 2003, the Registrar withdrew Mr. Hodžić's assignment and appointed Mr. Stefan Kirsch as lead counsel. On 5 March 2004, the accused filed a request for the withdrawal of Mr. Kirsch and, on 22 March 2004, the Registrar refused the request. Thereafter, the accused expressed his intention to file an appeal against the Registrar's decision to the President and on 25 March 2004 the Registrar assigned Mr. Karim Khan as independent counsel to assist the accused in this matter. An application was filed before the President on 23 April 2004 for review of the Registrar's decision. On 21 June 2004, the President rendered his decision, quashing the decision of the Registrar and directing the Registrar to reconsider the request of the accused for the withdrawal of Mr. Kirsch. The final resolution of the matter is pending.

91. On 28 November 2003 and 3 December 2003 the defence filed motions seeking the assistance of the Trial Chamber in obtaining access to material and information held by various governmental entities in Bosnia and Herzegovina. On 4 December 2003, the Trial Chamber dismissed the motions, indicating that the appropriate course of action was for the defence to seek the assistance of the State prior to seeking any order from the Trial Chamber. On 13 January 2004, the defence renewed its requests for assistance from the Trial Chamber, to which the authorities of Bosnia and Herzegovina responded, indicating that assistance would be provided. On 28 May 2004, the defence indicated to the Trial Chamber a significant level of cooperation from the authorities of Bosnia and Herzegovina and requested a 20-day extension for the defence submission of a final report. On 17 June 2004, the defence submitted its final report and sought assistance from the Trial Chamber with respect to access to materials from a particular governmental entity in Bosnia and Herzegovina. On 6 July 2004, considering that it was appropriate to allow Bosnia and Herzegovina to respond to the matter before the Trial Chamber renders its decision, the Trial Chamber ordered that a response, if any, be filed by 30 July 2004. The Trial Chamber remains seized of the matter.

92. On 29 December 2003, the defence filed a motion requesting the Trial Chamber to issue subpoenas so that certain prosecution witnesses could be interviewed by the defence. On 16 February 2004, the Trial Chamber dismissed the request. On 2 April 2004, the Trial Chamber granted leave to appeal this decision.

On 21 June 2004, the Appeals Chamber rendered a decision, reversing the decision of the Trial Chamber and remitting the matter to the Trial Chamber. The Trial Chamber decision is pending.

93. On 12 March 2004, the defence filed a motion objecting to continued disclosure by the prosecution after the date set by the pre-trial judge for the completion of such disclosure and after the prosecution had reported to the Trial Chamber that disclosure was complete. On 7 May 2004, the Trial Chamber ordered the prosecution to file a report identifying the relevant materials and giving an explanation as to why the material was disclosed after the date set, and for any further disclosure be made only with the leave of the pre-trial judge, unless otherwise agreed between the parties. Upon review of the report filed by the prosecution on 27 May 2004, the Trial Chamber was generally satisfied with the explanations from the prosecution, regarding the late disclosures. The Trial Chamber remains seized of this matter, with the pre-trial judge granting leave for further disclosures when he is satisfied with the explanations from the prosecution. In relation to this issue, on 6 July 2004, the defence filed a renewed motion seeking an order that the prosecution stop all further investigations in this case and the consequential disclosure of new materials. On 19 July 2004, the prosecution filed its response and the Trial Chamber decision is pending.

94. During the reporting period, the Trial Chamber rendered 12 decisions and Judge Kwon, the pre-trial judge, conducted two status conferences. Five conferences have been convened by the Senior Legal Officer pursuant to rule 65 ter.

(12) Jokić (Miodrag) case

95. Admiral Miodrag Jokić was indicted in February 2001 (originally together with general Pavle Strugar and captain Vladimir Kovačević, see below), and charged with six counts alleging violations of the laws and customs of war for the bombardment of Dubrovnik in December 1991 and crimes committed in the operations conducted to "secure control of those parts of Croatia that were intended for inclusion in the so-called Dubrovnik Republic". Admiral Jokić surrendered voluntarily to the Tribunal on 12 November 2001 and was provisionally released on 20 February 2003. The second amended indictment, reducing the charges to only one day of bombardment of Dubrovnik on 6 December 1991, was approved by the Chamber on 28 May 2003 partly in response to the defence's third preliminary motion against the form of the indictment. The case was assigned to Trial Chamber I.

96. On 25 August 2003, Admiral Jokić entered into a plea agreement with the Prosecutor, according to which he pleaded guilty to all six counts in the amended indictment in exchange for his full cooperation with the prosecution and a joint recommendation for a sentence of a maximum 10 years' imprisonment. At the plea hearing on 27 August 2003, the Chamber satisfied itself that the guilty plea was in accordance with rule 62 bis and entered a finding of guilt thereupon. On 17 September 2003, the case against Jokić was severed from the case against Pavle Strugar and Vladimir Kovačević.

97. The sentencing briefs were submitted on 14 November 2003 and the sentencing hearing was held on 26 November 2003. The Trial Chamber sentenced Admiral Jokić to seven years of imprisonment on 18 March 2004. Admiral Jokić appealed the sentence.

(13) Kovačević case

98. Captain Vladimir Kovačević was indicted together with Pavle Strugar and Admiral Jokić and charged with six counts of violations of the laws and customs of war for the bombardment of Dubrovnik on 6 December 1991. He was arrested in Belgrade on 26 September 2003 and transferred to the Tribunal on 23 October 2003. Upon his arrival to the Tribunal's Detention Unit in The Hague, however, Kovačević was found to be in a state of mental disorder which, at that time, prevented him from entering a plea before the Chamber. Initial appearances were held twice in November 2003, but at neither of these occasions was the Chamber satisfied that the accused was fit to enter a plea. The case is assigned to Trial Chamber I.

99. The case against Captain Kovačević was severed from the case against Strugar on 26 November 2003 and the Chamber then ordered a medical examination by two experts. The expert report was filed on 17 December 2003, in which the experts concluded that the accused was currently unable to fully understand the context of the charges raised against him, but that he might recover if adequately treated at a mental health institution in a Bosnian/Croatian/Serbian-speaking environment; a similar finding was made by a defence psychiatrist and by the consulting psychiatrist of the Detention Unit.

100. On 2 June 2004, the Chamber granted the defence counsel's request for provisional release and Kovačević was returned to Serbia for psychiatric treatment in a mental health institution for an initial period of six months to ascertain whether, after being treated adequately, he could be fit to stand trial. Mr. Kovačević was transferred to a mental institution in Belgrade on 7 June 2004.

(14) Krajišnik case

101. This case originally concerned two high-ranking Bosnian Serb politicians, Biljana Plavsić and Momčilo Krajišnik. They were charged alternatively as commanders and participants in a joint criminal enterprise for the commission of offences including crimes against humanity, violations of the laws or customs of war, grave breaches of the Geneva Conventions and genocide. Mr. Krajišnik was arrested by international forces in early 2000 and Ms. Plavsić surrendered voluntarily to the Tribunal in January 2001. She pleaded guilty on 2 October 2002 and the case against Mr. Krajišnik was severed from the case against Ms. Plavsić on 25 November 2002 and assigned to Trial Chamber I.

102. The trial was scheduled to begin on 12 May 2003. On 2 May 2003, however, 10 days before the scheduled beginning of the trial, the Registrar was compelled to withdraw the defence counsel because he had been disbarred in his home country and therefore no longer fulfilled the criteria for assignment as counsel before the Tribunal. The beginning of the trial was consequently postponed.

103. By decisions of 30 July and 16 September 2003, the Registrar appointed new lead counsel and co-counsel to Mr. Krajišnik. The new defence team requested an extensive delay of the commencement of trial in order to adequately prepare for the case, which was partially granted. The trial against Mr. Krajišnik commenced on 3 February 2004.

104. Opening arguments of the prosecution were heard on 3 and 4 February 2004, and on 4 February 2004 the prosecution commenced the presentation of its evidence. From that date until 27 February 2004, seven witnesses testified for the

prosecution, including an expert witness on the Bosnian Serb leadership. On 27 February 2004, following a request of the defence, the proceedings were adjourned in order to allow the defence additional time to prepare for the cross-examination of this expert witness and to respond to several prosecution motions. Since the trial began, the Chamber issued around 20 written decisions (including 6 decisions pursuant to rule 92 bis relating to 35 witnesses) and around 20 oral decisions. From the beginning of the trial in February 2004 until July 2004, the trial has been adjourned approximately half of the available trial time due to the need for the new defence team to prepare its case.

105. The proceedings resumed on 13 April 2004, with the cross-examination of the expert witness and the Trial Chamber then heard the testimonies of six prosecution witnesses. On 23 April 2004, the Trial Chamber issued a decision adjourning the proceedings until 24 May 2004. The trial resumed on that date and, during the following month, the Trial Chamber heard evidence from seven prosecution witnesses.

106. During the month of April 2004, the parties were instructed by the Chamber to undertake intensive efforts to agree upon a certain number of facts in order to narrow down the number of witnesses and to focus on the evidence linking the accused with the crimes rather than on the crimes themselves. In practice, negotiations were aimed at reducing the number of crime-base and expert witnesses to be called by the prosecution. Upon a positive assessment of the effectiveness of the negotiations between the parties, the Trial Chamber granted a joint request for an adjournment of the trial during the month of July. However, the defence subsequently withdrew from the negotiations and the Trial Chamber therefore reduced the number of 92 bis witnesses by way of an order dated 19 July 2004 and decided to resume the trial.

(15) Limaj, Bala and Musliu case

107. This is the first case brought before the Tribunal against persons belonging to the Albanian population in Kosovo for crimes committed against civilian Serbs at the Lapusnik Prison Camp in Glogovac in Kosovo. The three accused, Fatmir Limaj, Haradin Bala and Isak Musliu were all members of the Kosovo Liberation Army; Mr. Limaj was a local politician tasked with supervision of the prison, in which Bala and Musliu served in different capacities. Messrs. Bala and Musliu were arrested on 17 February 2003 in Kosovo and transferred on the following day to the Tribunal. At their initial appearance on 20 February 2003, Mr. Bala pleaded not guilty to four counts and Mr. Musliu to three counts of crimes against humanity (imprisonment, cruel treatment, torture and murder), alternatively charged as violations of the laws or customs of war. Mr. Limaj was arrested on 18 February 2003 in Slovenia and transferred to the Tribunal on 4 March 2003. He made his initial appearance on 5 March 2003, and pleaded not guilty to the same counts as those charged against his two co-accused. On 31 October 2003, the Chamber denied a request filed by all three accused for provisional release. The case is assigned to Trial Chamber I.

108. The prosecution filed its pre-trial brief on 28 February 2004. The accused filed their respective pre-trial briefs on 1 June 2004. As one of the prosecution's expert reports was only filed shortly before the defence pre-trial briefs, the accused were granted the right to file supplementary observations to their briefs regarding that report. The case was ready for trial as of 1 July 2004.

(16) Ljubičić case

109. On 30 November 2001, police commander Paško Ljubičić pleaded not guilty to five counts of crimes against humanity (persecution, murder and inhumane acts) and 10 counts of violations of the laws or customs of war (unlawful attack on civilians, murder, violence to life and person, unjustified devastation, destruction or wilful damage to religious institutions, plunder and cruel treatment) in relation with ethnic cleansing in the Lašva Valley in Central Bosnia between June 1992 and July 1993. The case is assigned to Trial Chamber I.

110. The pre-trial briefs of the prosecution and the defence were filed in June and July 2003. The case was not ready for trial until the issue of production of a very large number of documents to the defence by the Governments of Bosnia and Herzegovina and Croatia had been solved. The Chamber had issued a binding order to the Government of Bosnia and Herzegovina in February 2003, but the defence had still not received all the documents sought.

111. After a hearing was held on 7 November 2003 with representation of the Government of Croatia and the Chamber's subsequent binding order of 19 January 2004, a number of the documents sought by the defence were produced by the Croatian Government. The Government of Bosnia and Herzegovina also produced an additional number of the documents sought by the defence counsel, but neither Government has fully complied with the defence counsel's request for copies of specified documents, asserting that the documents cannot be found. At the Status Conference held on 23 July 2004, the defence counsel declared that the accused was ready to go to trial even if not all the documents had been produced. The case has been ready for trial as of 1 July 2004.

(17) Martić case

112. Milan Martić, a military commander and a political leader in the Serbian enclave of Krajina in Croatia, was originally indicted in 1995 and was transferred to the Tribunal on 15 May 2003. A second amended indictment was confirmed on 5 September 2003 and he subsequently pleaded not guilty to 10 counts of crimes against humanity (persecution, extermination, murder, imprisonment, torture, inhumane acts and deportation) and to 9 charges of violations of the laws or customs of war (murder, torture, cruel treatment, wanton destruction of villages and religious institutions, plunder of private property, and attack on civilians) arising from an attack on Zagreb on 2 and 3 May 1995 and for crimes committed against Croatian civilians in Krajina from August 1991 to December 1995. The case is assigned to Trial Chamber I.

113. Completion of the prosecution's disclosure obligations remains a contested issue between the parties, and the defence has appealed the Chamber's Decision of 1 July 2004 to uphold the Registrar's determination of the level of complexity of the case. The prosecution's pre-trial brief was filed on 7 May 2004, and the defence has been given until 15 September 2004 to file its pre-trial brief.

(18) Mejakić, Gruban, Fuštar and Knežević case

114. All four accused, Željko Mejakić, Momčilo Gruban, Dušan Fuštar and Duško Knežević, are charged under article 7 (1) of the Statute with persecution, punishable under article 5 (h), other inhumane acts (cruel treatment), punishable under article

5 (i) and murder, punishable under articles 5 (a) and 3 (1) (a). Three of the accused, Messrs. Mejakić, Gruban and Fuštar, are also charged with command responsibility under article 7 (3) of the Statute. Mr. Gruban was granted provisional release in July 2002.

115. On 8 March 2004, the President assigned Judge Bert Swart to replace Judge Richard May and composed the Trial Chamber in this case of Judge Robinson, Judge Kwon and Judge Swart. Subsequent to the appointment of Judge Iain Bonomy as a permanent judge to Trial Chamber III, the President assigned Judge Bonomy on 23 July 2004 to replace Judge Swart in this case, effective 1 August 2004. Pre-trial preparation has continued under the direction of the pre-trial judge, Judge Robinson, and the case is ready for trial.

116. In November 2003, the Trial Chamber rendered a decision on a motion challenging the form of indictment filed by Mr. Mejakić who had been transferred to the Tribunal in July 2003. All parties then filed or supplemented their pre-trial briefs. In April 2004, the Trial Chamber ruled on a prosecution motion to admit 252 facts that were the subject of prior adjudication by Trial Chambers in three other cases. The Trial Chamber granted the request in part, excluding those facts that were too broad, too tendentious, not sufficiently significant, or not sufficiently relevant to the case. The Trial Chamber also rejected facts that were derived from a judgement based on a plea agreement.

117. In December 2003, the prosecution filed a motion for the admission of trial transcripts and statements of 44 witnesses pursuant to rule 92 bis and rule 89 (F). The Trial Chamber remains seized of all matters relating to this application.

118. On 17 June 2004, the Trial Chamber issued a ruling concerned with the question of a potential conflict of interest arising from a decision of the Registrar to appoint Mr. Simić, already assigned lead counsel to Mr. Prcać in the case *Prosecutor v. Kvočka et al.*, currently on appeal, as counsel for the accused Mr. Mejakić, thereby extending Mr. Simić's assignment to more than one accused at a time. In an earlier decision, the Trial Chamber noted that Counsel had followed the procedure laid out in article 14 of the Code of Professional Conduct for Defence Counsel Appearing Before the International Tribunal (IT/125/Rev.1, 12 July 2002), in that he had obtained, in writing, the consent of Mr. Mejakić and Mr. Prcać to represent both of them. In the circumstances, the Registrar had concluded that both accused had been fully informed of the existence and extent of any potential conflict of interest. The Trial Chamber observed that although a conflict would arise were Mr. Prcać to be called to give evidence in the Mejakić case, it held that, in the light of the hypothetical nature of the application, the matter was best left for the relevant Trial Chamber to decide, in due course, how to address the issue when and if it arises. On 6 July 2004, the Trial Chamber granted a prosecution's request to certify the decision for interlocutory appeal.

119. On 28 July 2004, the Trial Chamber dismissed an application filed on behalf of the accused Knežević seeking orders to prohibit the release of photography, video and audio recording of the accused Knežević noting that the objection had not been raised at first opportunity as orders authorizing the release of the material were in place when defence counsel was assigned in September 2002, and no sufficient material prejudice had been shown to warrant the relief sought. The Trial Chamber also held the potential impact of pre-trial media coverage is a factor to be taken into account at trial and not a matter for determination at this stage of the proceedings.

120. During the reporting period, the Trial Chamber rendered eight decisions, and Judge Robinson, the pre-trial judge, conducted three status conferences. Four conferences have been convened by the Senior Legal Officer pursuant to rule 65 ter.

(19) Milošević case

121. Slobodan Milošević is charged as a commander and (alternatively) as a participant in a joint criminal enterprise for the commission of offences said to have been committed in Kosovo, Croatia and Bosnia and Herzegovina. On 1 February 2002, the Appeals Chamber consolidated the three indictments and ordered that the cases be tried in a single proceeding.

122. The accused is charged under article 7 (3) of the Statute with deportation, punishable under articles 2 (g) and 5 (d), inhumane acts, punishable under article 5 (i), murder, punishable under articles 3 and 5 (a), persecutions on political, racial and religious grounds, punishable under article 5 (h), extermination, punishable under article 5 (b), wilful killing, punishable under article 2 (a), unlawful confinement, punishable under article 2 (g), imprisonment, punishable under article 5 (e), torture, punishable under articles 2 (b), 3 and 5 (f), wilfully causing great suffering, punishable under article 2 (c), cruel treatment, punishable under article 3, destruction of property, punishable under articles 2 (d) and 3, plunder, punishable under article 3, attacks on civilians, punishable under article 3, destruction of historic, religious and educational property, punishable under article 3 and, in respect of the Bosnian Muslim population of Bosnia and Herzegovina, genocide and complicity in genocide, punishable under article 4.

123. Following the retirement of the presiding judge, Richard May, owing to ill-health, Judge Iain Bonomy was sworn in on 7 June 2004 and assigned to the Milošević trial. He thereafter certified that he was familiar with the record of the case, pursuant to rule 15 (D).

124. The trial of Mr. Milošević commenced before Trial Chamber III on 12 February 2002. The prosecution rested its case on 25 February 2004. The commencement of the defence case has been delayed due to the ill-health of the accused.

125. To aid the Trial Chamber and the accused in his defence, the Trial Chamber ordered the appointment of amici curiae to assist it in a number of areas. Currently serving as amici curiae are Steven Kay QC, Professor Timothy McCormack and, from the commencement of the defence case, Gillian Higgins. The self-represented accused is assisted out of court by three "legal associates" (all lawyers), Zdenko Tomanović, Dragoslav Ognjanović, and Branko Rakić, the last of whom was appointed on 23 October 2003 at the request of the accused. The accused has privileged communications with these legal associates.

126. Sixty-six hearing days have been lost because of the ill-health of the accused. Following the advice of medical experts, regular breaks are provided in the trial schedule to give the accused additional time out of court to recuperate and prepare his defence. On 30 September 2003, the Trial Chamber made an oral ruling that, in the light of medical advice concerning the accused's health, the Trial Chamber would sit three days each week, in general giving the accused four consecutive days of rest.

127. On 17 September 2003, in anticipation of the close of the prosecution case, the Trial Chamber, after having heard the parties and amici curiae, ordered a three-month adjournment between the close of the prosecution's case-in-chief and the commencement of the defence case. On 20 January 2004, the Appeals Chamber upheld the Trial Chamber's order.

128. The prosecution rested its case-in-chief on 25 February 2004, subject to several matters pertaining to the admission of documents and its case in rebuttal. The accused has 150 days in which to present his case, subject to adjustment depending on the time taken in cross-examination and administrative matters. The Trial Chamber has been in consultation with the Registry to ensure that the accused is afforded all the assistance and resources necessary to prepare his defence, and unprecedented facilities have been made available to the accused for this purpose at the Detention Unit.

129. The prodigious temporal and geographic scope of the trial has placed unique demands on the Trial Chamber to ensure that the rights of the (self-represented) accused are fully protected and that the trial is conducted in as expeditious a manner as possible. In this regard, the Trial Chamber has encouraged the prosecution to expedite and reduce the scope of its case and has been cautious in its approach to the admission and presentation of evidence, so as to guard against any potential prejudice to the rights of the accused.

130. On 30 September 2003, the Appeals Chamber allowed a prosecution interlocutory appeal of the Trial Chamber's denial of an application to admit into evidence written statements of witnesses pursuant to rule 89 (F), holding that a statement of a witness may be entered into evidence pursuant to rule 89 (F) provided that the witness is present in court, is available for cross-examination and any questioning by the judges, and attests that the statement accurately reflects his or her declaration and what he or she would say if examined. In implementing the Appeals Chamber's decision, the Trial Chamber issued rulings that adhered generally to its first ruling that such statements may be admitted under rule 89 (F) so long as they do not go to the acts and conduct of the accused himself.

131. Following the Appeals Chamber's decision on a prosecution interlocutory appeal regarding the Trial Chamber's denial of an application to admit into evidence certain adjudicated facts pursuant to rule 94 (B), the Trial Chamber issued its final decision on this matter on 16 December 2003, admitting a number of adjudicated facts from other proceedings that are now open to the accused to challenge during the course of his case.

132. In addition to the trial proceedings themselves, this case has generated a number of ancillary proceedings, including prosecution applications for binding orders directed to Serbia and Montenegro for the production of documentation relevant to the proceedings. Fifteen decisions have been issued by the Trial Chamber on this aspect alone. The Trial Chamber also dealt with a contempt proceeding, arising from an alleged breach of witness protective orders issued by the Trial Chamber, against Duško Jovanović, the late editor-in-chief of the Montenegrin newspaper, *DAN*.

133. During the reporting period, the Trial Chamber issued 202 written decisions and 77 oral rulings.

(20) Milutinović, Šainović and Ojdanić case

134. Milan Milutinović, Nikola Šainović and Dragoljub Ojdanić are charged jointly in relation to events in Kosovo in the first half of 1999. Originally indicted with Slobodan Milošević, the cases were severed by a decision of Trial Chamber III in September 2002. All three accused are charged under articles 7 (1) and 7 (3) of the Statute with deportation, punishable under article 5 (d) of the Statute, other inhumane acts (forcible transfer), punishable under article 5 (i), murder, punishable under articles 5 (a) and 3 (1) (a), and persecutions on political, racial and religious grounds, punishable under article 5 (h). Mr. Ojdanić filed a third application for provisional release on 21 November 2003. The Trial Chamber denied the motion on 16 December 2003.

135. On 26 February 2004, the President assigned Judge Bert Swart to replace Judge Richard May and determined that the Trial Chamber in this case would be composed of Judge Robinson, Judge Kwon and Judge Swart. Subsequent to the appointment of Judge Iain Bonomy as a permanent Judge to Trial Chamber III, the President assigned Judge Bonomy on 23 July 2004 to replace Judge Swart in this case, effective 1 August 2004. Pre-trial preparation has continued under the direction of the pre-trial judge, Judge Robinson. The prosecution pre-trial brief was filed on 14 June 2004, and defence briefs are due on 13 September 2004.

136. On 5 November 2003, the prosecution filed a motion seeking to join the three accused in this case with four persons accused in a separate indictment, and for all seven accused to be jointly charged and tried under one joint indictment. On 4 December 2003, the Trial Chamber dismissed the motion as premature, as none of the other accused had surrendered or had been brought before the Tribunal. The Trial Chamber considered that the issue of joinder would only become ripe for resolution when one or more of the accused subject of the other indictment are in the custody of the Tribunal.

137. The Trial Chamber has issued a number of rulings concerning remuneration of defence counsel. In October 2003, Mr. Šainović challenged the Registrar's decision of 13 October 2003 requiring him to bear the cost of 1,620 hours of investigative and legal work at the pre-trial stage. On 26 November 2003, the Trial Chamber ruled the motion inadmissible on the ground that the correct procedure to be followed where there is disagreement relating to the calculation of fees was provided for under the directive on assignment of defence counsel. The motion was transmitted to the Registrar for determination.

138. A request for resumption of proceedings by Ojdanić concerning his request for a binding order for the production of documents by States members of the North Atlantic Treaty Organization (NATO) was filed on 21 November 2003. The application has been served on all affected States and responses filed. Although a number of States have produced documents in response to the request, or have confirmed that they do not have such documents, other States have raised various objections to the relief sought, including national security interests. The Trial Chamber remains seized of all matters relating to this application.

139. During the reporting period, the Trial Chamber rendered 14 decisions, and Judge Robinson, the pre-trial judge, conducted three status conferences. Six conferences were convened by the senior legal officer pursuant to rule 65 ter.

(21) Mrđa case

140. Darko Mrđa, a commander of the Prijedor Police Intervention Squad, was indicted on 26 April 2002 with two counts of crimes against humanity (extermination and inhumane acts) and one count of violations of the laws or customs of war (murder) in relation to a single incident of execution of over 200 non-Serb men on Mount Vlasic in Bosnia and Herzegovina during transport from the Trnopolje Camp to Travnik in August 1992. The case was assigned to Trial Chamber I.

141. On 24 July 2003, Mr. Mrđa entered into a plea agreement with the prosecutor according to which he pleaded guilty to murder and inhumane acts (counts 2 and 3), but not to extermination (count 1). The Chamber verified that the agreement was voluntary, informed and unequivocal, and that there was a sufficient factual basis for the crimes as well as for Mr. Mrđa's participation therein, and entered a finding of guilt accordingly.

142. The sentencing briefs were filed by the parties on 13 October 2003 and the sentencing hearing was held on 22 October 2003, during which two witnesses were called by the prosecution. On 31 March 2004, the Trial Chamber sentenced Mrđa to 17 years of imprisonment.

(22) Mrkšić, Radić and Šljivančanin case

143. Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin, the three accused in this case, are charged with crimes against humanity (persecutions, extermination, murder, torture and inhumane acts) and with violations of the laws or customs of war (murder, torture and cruel treatment) for their alleged participation, after the fall of Vukovar, in the removal from Vukovar Hospital of Croats and other non-Serbs and in the subsequent killing of approximately 264 of them.

144. The case is assigned to Trial Chamber II. Judge Agius is the pre-trial judge. The bench at the start of the reporting period included Judge Florence Mumba and Judge Wolfgang Schomburg. On 14 October 2003, Judge Schomburg was replaced with Judge Jean-Claude Antonetti. On 15 December 2003, Judge Mumba was replaced by Judge Kevin Parker.

145. Three status conferences were convened pursuant to rule 65 bis (A) during the reporting period: on 22 October 2003, 16 February 2004 and 11 June 2004. The 16 February 2004 session also served as a further initial appearance for the accused Radić and Šljivančanin, to plead to the new charges contained in the consolidated amended indictment. This indictment was authorized by the Chamber on 23 January 2004, in its second decision on the form of the indictment, responding to challenges from all three accused. The decision upheld the challenges insofar as the prosecution was ordered to amend the indictment in order to comply with the Tribunal's general pleading principles. A third decision on the form of the indictment, responding to motions from the accused Mrkšić and Šljivančanin, was issued on 20 July 2004. The motions were partly granted insofar as the prosecution's amended indictment did not comply with the general pleading principles, and the prosecution was directed to amend and re-file the indictment no later than 17 August 2004.

146. A number of issues were raised concerning assignment of counsel and the indigence of the accused. On 23 August 2003, the President quashed a decision of

the Registrar denying the assignment of counsel requested by the accused Šljivančanin. The Registry subsequently issued a new decision. With respect to the issue of indigence, the Chamber upheld a Registry decision requiring the accused Mrkšić to pay a part of his counsel's fees. Following a challenge to a similar decision from the accused Šljivančanin, the Registry applied a newly introduced legal aid system and issued a new decision, finding Šljivančanin to be indigent. In view of the new legal aid system, on 27 July 2004 the Chamber issued a directive instructing the Registrar to reconsider his decision with respect to the indigence of the accused Radić.

(23) Nikolić (Dragan) case

147. Dragan Nikolić was charged with crimes against humanity for offences allegedly committed against Muslim and other non-Serb detainees in the Susica camp in the Vlasenica municipality from June to September 1992. Following the amendment of the indictment on 27 June 2003, the accused pleaded not guilty to all charges and the trial was scheduled to start in September 2003 before Trial Chamber II, comprising Judges Schomburg (presiding), Mumba and Agius.

148. On 2 September 2003, the parties filed a joint plea agreement which was accepted by the Trial Chamber at a hearing on 4 September 2003 pursuant to the plea agreement. Dragan Nikolić pleaded guilty to counts 1 to 4 of the indictment for counts related to persecution, murder, rape and torture.

149. The sentencing hearing was held between 3 and 7 November 2003. The prosecution recommended a sentence of 15 years' imprisonment. Prior to the hearing, the Trial Chamber, acting proprio motu, issued an order requesting Professor Sieber to submit an expert report on comparative sentencing practices and ranges for the crimes to which the accused had pleaded guilty, including those applicable in States on the territory of the former Yugoslavia. Professor Sieber's report was admitted into evidence in the course of his testimony at the sentencing hearing. The Chamber further requested the Registry to appoint an expert in psychology to prepare a report on the accused's socialization. This report by Dr. Grosselfinger was also admitted into evidence in the course of her testimony at the sentencing hearing.

150. On 18 December 2003, the Trial Chamber issued its sentencing judgement. Having reviewed the factual background forming the basis of the guilty plea, the Trial Chamber entered a single conviction for persecutions as subsuming all crimes, and sentenced Dragan Nikolić to 23 years of imprisonment.

(24) Nikolić (Momir) case

151. Momir Nikolić was originally indicted together with Dragan Obrenović, Vidoje Blagojević and Dragan Jokić for the crimes committed against Bosnian Muslims following the fall of the Srebrenica "safe area" in July 1995. The case was assigned to Trial Chamber I.

152. Following the acceptance of Mr. Nikolić's plea of guilty to one count of persecutions as a crime against humanity in May 2003 and the filing of sentencing briefs, a sentencing hearing was held from 27 to 29 October 2003. The Trial Chamber heard four witnesses on behalf of the defence, two of whom were granted protective measures including face distortion and the use of a pseudonym. To assist

it in determining an appropriate sentence, the Trial Chamber called three witnesses proprio motu to testify at the sentencing hearing pursuant to rule 98, including one witness who had already been convicted by the Tribunal, Miroslav Deronjić. One witness called by the Trial Chamber was heard in closed session. In addition to the witnesses heard viva voce, the Trial Chamber admitted the former testimony of four witnesses on behalf of the prosecution pursuant to rule 92 bis. The Trial Chamber also admitted the testimony of Mr. Nikolić from the trial of Messrs. Blagojević and Jokić, his former co-accused, into evidence. Mr. Nikolić had testified in that trial from 19 September to 1 October 2003.

153. As part of the plea agreement, the prosecution recommended a sentence of between 15 and 20 years for Mr. Nikolić, while the Nikolić defence submitted that the sentence should not exceed 10 years. On 2 December 2003, the Trial Chamber sentenced Mr. Nikolić to 27 years imprisonment. Mr. Nikolić has appealed the sentence and his appeal is currently pending.

(25) Norac case

154. Colonel Mirko Norac was indicted on 11 May 2004 with two counts of crimes against humanity (persecutions and murder) and three counts of violations of the laws and customs of war (murder, plunder of property and wanton destruction of cities) committed by Croatian forces against Serbian civilians during the military operation in the Medak pocket in Croatia. The indictment was confirmed on 22 May 2004. The accused was brought to the Tribunal for his initial appearance on 8 July 2004, where he entered a plea of not guilty to all five counts. On 27 May 2004, the prosecutor filed a motion for joinder with the case against Ademi.

155. The prosecutor indicated, in the motion, her intention to also seek referral of the joint case to a Court of the Republic of Croatia under rule 11 bis of the Rules. Norac is currently serving a national prison sentence imposed on him in Croatia for war crimes unrelated to the indictment issued against him by the Tribunal. After his initial appearance on 8 July 2004, Mr. Norac was detained on remand and returned to the prison in Croatia where he continues to serve his sentence. The case is assigned to Trial Chamber I.

(26) Obrenović (Dragan) case

156. Dragan Obrenović was originally indicted together with Vidoje Blagojević, Momir Nikolić and Dragan Jokić for the crimes committed against Bosnian Muslims following the fall of the Srebrenica "safe area" in July 1995. The case was assigned to Trial Chamber I in April 2003. Following the acceptance of Mr. Obrenović's plea of guilty to one count of persecutions as a crime against humanity in May 2003 and the filing of sentencing briefs, a sentencing hearing was held on 30 October 2003, during which the Trial Chamber heard four witnesses on behalf of the defence, two of whom testified in closed session. In addition, it admitted the evidence of five witnesses on behalf of the prosecution and nine witnesses on behalf of the defence pursuant to rule 92 bis. The Trial Chamber also admitted the testimony of Mr. Obrenović in the trial of Messrs. Blagojević and Jokić, his former co-accused; Mr. Obrenović testified in that trial from 1 October to 10 October 2003.

157. On 10 December 2003, the Trial Chamber sentenced Mr. Obrenović to 17 years imprisonment. On 18 June 2004, Mr. Obrenović was transferred to Norway to serve his sentence.

(27) Orić case

158. The accused Naser Orić is charged under article 7 (1) of the Statute with two counts of violations of the laws or customs of war (wanton destruction of cities, towns or villages, not justified by military necessity; and plunder of public or private property) punishable under articles 3 and 7 (3) of the Statute with four counts of violations of the laws or customs of war (murder; cruel treatment; wanton destruction of cities, towns or villages, not justified by military necessity; and plunder of public or private property), punishable under article 3 of the Statute. On 25 July 2003, the Trial Chamber denied the accused's request for provisional release and on 17 October 2003, the Appeals Chamber affirmed the decision.

159. On 26 February 2004, the President assigned Judge Bert Swart to replace Judge Richard May, considering the need to expedite the proceedings in this case, and determined that the Trial Chamber in this case would be composed of Judge Robinson, Judge Kwon and Judge Swart. Subsequently, upon appointment of Judge Iain Bonomy, by the Secretary-General of the United Nations as a permanent judge of the Tribunal, the President assigned Judge Bonomy to the present Trial Chamber. As a consequence, the President assigned Judge Bonomy to replace Judge Swart and determined that the Trial Chamber in this case would, from 1 August 2004, be composed of Judge Robinson, Judge Kwon and Judge Bonomy. Pre-trial preparation is continuing under the direction of the pre-trial judge, Judge Kwon of Trial Chamber III. The prosecution filed its pre-trial brief on 5 December 2003 and the defence filed its pre-trial brief on 4 March 2004.

160. As a potential means to expedite the Tribunal's proceedings, the possible use of a case-management software program has been discussed within the Chamber. The software programme, which can be used to organize and evaluate both documentary and testamentary evidence, is already in use by the prosecution. The Orić case has been selected as a pilot case to assess its use by all parties, with members of the defence and the legal support staff attending information and training sessions. A report on the potential utility of this programme is currently being prepared.

161. Finally, during the status conference of 21 July 2004, the pre-trial judge announced to the parties that the trial for this case was scheduled to commence in early October of 2004. With permission from the President, the pre-trial judge disclosed to the parties that the Trial Chamber, which will hear the case, would be presided by Judge Carmel Agius.

162. During the reporting period, the Trial Chamber rendered seven decisions, and Judge Kwon, the pre-trial judge, conducted three status conferences. Six conferences were convened by the Senior Legal Officer pursuant to rule 65 ter.

(28) Prlić, Stojić, Praljak, Petković, Ćorić and Pušić case

163. Jadranko Prlić (Prime Minister of Herceg-Bosna), Bruno Stojić (Head of the Ministry of Defence in Herceg-Bosna), Slobodan Praljak (Deputy Defence Minister in Croatia and Military Commander of the Croatian Defence Council (HVO)), Milivoj Petković (Chief of the HVO military staff in Herceg-Bosna), Valentin Ćorić (Head of military police in Herceg-Bosna) and Berislav Pusić (Head of the HVO Commission for Exchange of Prisoners) were indicted jointly on 3 March 2004 for crimes committed against Serbs in the Croatian-held part of Northern Bosnia in

1992 and 1993. They surrendered voluntarily to the Tribunal on 5 April 2004 and pleaded not guilty at their initial appearance on 6 April to a total of 26 counts of war crimes (wilful killing, torture, inhumane treatment, extensive destruction of property, plunder, unlawful labour and unlawful attack on civilians), violations of the laws and customs of war (wanton destruction of cities and villages) and crimes against humanity (persecution, murder, torture, inhumane treatment, imprisonment and deportation). The case is assigned to Trial Chamber I.

164. At the initial appearance, the Chamber raised a question regarding a possible conflict of interest deriving from the fact that some of the accused were represented by counsel already assigned as defence counsels to other indictees before the Tribunal, who were in a subordinate relationship to the accused in the present case. All six accused have applied for provisional release. A hearing on the issue of provisional release and conflict of interest was held on 19 July 2004. On 30 July 2004, the Trial Chamber granted the applications of all co-accused for provisional release on the grounds that they do not pose a threat to victims, witnesses and other persons and that they will appear for trial.

(29) Rajić case

165. Ivica Rajić, a captain in the Croatian Defence Council's Second Operational Group in Kiseljak, Bosnia-Herzegovina, was originally indicted in 1995 for crimes committed in the fall of 1993 against the civilian Muslim population in the village of Stupni Do and the town of Vareš in central Bosnia-Herzegovina. He was arrested in Croatia in April 2003 and was surrendered to the Tribunal on 24 June 2003. At his first initial appearance on 27 June 2003, he pleaded not guilty to two counts of war crimes (wilful killing and destruction of property) and one count of violations of the laws and customs of war (attack on civilians). The case is assigned to Trial Chamber I.

166. In response to a motion filed by the defence on the form of indictment, the Trial Chamber confirmed an amended indictment in January 2004 and the accused then pleaded not guilty at his second initial appearance on 29 January 2004 to five counts of war crimes (wilful killing, inhumane treatment and sexual assault, unlawful confinement, appropriation of property and wanton destruction) and five counts of violations of the laws and customs of war (murder, outrages upon personal dignity, cruel treatment, plunder, wanton destruction of towns and unjustified devastation). The defence filed again a motion on the form of the second amended indictment, and the Trial Chamber issued its decision on 27 April 2004, ordering the prosecutor to clarify a number of allegations in the indictment. The prosecutor's disclosure of the supporting material has been completed.

(30) Rašević case

167. Mitar Rašević is indicted in relation to events which took place in Bosnia and Herzegovina at the Kazneno Popravni (KP) Dom detention centre at Foca from April 1992 until October 1994, against Muslim and other non-Serb civilians. Mr. Rašević is charged with seven counts of crimes against humanity (persecutions, torture, inhumane acts, murder, imprisonment and enslavement) and five counts of violations of the laws or customs of war (torture, cruel treatment, murder and slavery). Mr. Rašević is alleged to have been the commander of the guards at the Kazneno Popravni Dom. The prosecution alleges that he is individually responsible

for the crimes committed pursuant to article 7 (1) of the Statute, including as a participant in a joint criminal enterprise. Mr. Rašević is also charged as a superior for the acts of his subordinates pursuant to article 7 (3).

168. Mr. Rašević was indicted along with, among others, Milorad Krnojelać on 11 June 1997. He came into the custody of the Tribunal on 15 August 2003. At his initial appearance on 18 August 2003, Mr. Rasević requested to enter a plea within 30 days. At his further initial appearance on 16 September 2003, he declined to enter a plea, and Judge Janu entered pleas of not guilty to all charges in the indictment on his behalf. The case was assigned to Trial Chamber II.

169. The defence filed a preliminary motion on 20 November 2003. The prosecution, however, requested the Trial Chamber to hold its decision on the challenge to the indictment in abeyance pending the filing of an amended indictment. The defence did not oppose this request. On 2 December 2003, a motion for leave to amend the indictment was filed by the prosecution. The defence did not oppose the motion and filed a fresh preliminary motion on the form of the indictment on 12 January 2004. The Trial Chamber issued a decision on 28 April 2004, in which it granted the motion to amend, subject to a few clarifications to resolve ambiguities in the indictment. An amended indictment was filed by the prosecution on 12 May. The defence filed a further preliminary motion challenging parts of the amended indictment on 10 June 2004, to which the prosecution filed a reply on 22 June 2004. The Chamber denied the motion on 27 July 2004.

170. Originally Judge Wolfgang Schomburg was the pre-trial judge in this case. On 7 October 2003 Judge Jean-Claude Antonetti was assigned pre-trial judge. During the reporting period, 2 meetings pursuant to rule 65 ter and 3 status conferences were held.

(31) Šešelj case

171. Vojislav Šešelj is charged with crimes against humanity and violations of the laws or customs of war in an indictment of 14 counts issued on 14 February 2003. These counts relate to persecutions (count 1), extermination and murder (counts 2 to 4), imprisonment, torture, other inhumane acts and cruel treatment (counts 5 to 9), deportation and forcible transfer (counts 10 and 11) and wanton destruction or devastation not justified by military necessity, destruction or wilful damage to institutions dedicated to religion or education and plunder of public or private property (counts 12 to 14). The indictment alleges that as President of the Serbian Radical Party, he participated in a plan to forcibly remove a majority of the Croat, Muslim and other non-Serb populations from approximately one third of the territory of the Republic of Croatia, large parts of Bosnia and Herzegovina, and parts of Vojvodina in the Republic of Serbia in order to create a new Serb-dominated state.

172. Vojislav Šešelj surrendered himself to the Tribunal on 24 February 2003. Originally, Judge Wolfgang Schomburg was the pre-trial judge. However, as of 7 October 2003, Judge Carmel Agius took over as pre-trial judge in this case. The pre-trial chamber is composed of Judges Carmel Agius (presiding), Jean-Claude Antonetti and Kevin Parker.

173. From among many procedural issues raised during the pre-trial stage of this case, the following aspects may be mentioned. First, a number of issues have arisen

in relation to disclosure of information between the parties. The prosecution is in the process of providing the accused with statements from witnesses the prosecution intends to call during trial. Furthermore, the prosecution is required to provide the accused with any material that may be exculpatory. The prosecution has requested certain protective measures for some witnesses (motion of 10 September 2003). By a decision of 11 February 2004, the Trial Chamber partly accepted the motion but also requested further information in order to assess whether certain protective measures were necessary. By a motion of 23 April 2004, the prosecution provided such further information. The accused will not accept documents that are not in his own language as he claims that he does not understand or speak English. Under the Rules, he is entitled to receive certain material in his own language, but not all material. Furthermore, the accused refuses to use computers and wants to receive all material in paper version only. Decisions on such matters have not yet been taken. In relation to the issue of disclosure, the accused filed a motion on 26 March 2004, in which he requested copies of all statements of all witnesses in all cases before the Tribunal who have mentioned the accused. On 13 April 2004, the prosecution responded to this request. Although it recognizes the relevance of the request, it suggests a number of options in relation to the implementation of it. These issues are still pending.

174. As reported in the previous report, the Trial Chamber rendered a decision on 9 May 2003 in relation to a motion by the prosecution seeking to have defence counsel appointed. In that decision, the Trial Chamber ordered the appointment of a "standby counsel" as defined in the decision. The accused did not appeal against this decision, but still intends to defend himself. However, he requests the assignment of two attorneys from Belgrade to assist him in his defence as legal associates. On 5 September 2003, the Registrar assigned Mr. Lazarević as standby counsel. On 31 October 2003, the Registrar informed the accused that the two attorneys from Belgrade could not be assigned to him as legal associates. In relation to one of the attorneys, the Registrar found a possible conflict of interest and that the attorney might also be considered as a witness in the case of the accused. In relation to the other attorney, the Registrar found that this attorney did not meet the qualifications set out for counsel in rule 44 of the Rules of Procedure and Evidence. Owing to a possible conflict of interest between the accused and the standby counsel, the latter withdrew from the case and was replaced by Mr. van der Spoel as of February 2004.

175. On 15 January 2004, the accused filed a motion challenging the jurisdiction of the Tribunal and challenging parts of the indictment. The prosecution responded on 29 January 2004 and the Trial Chamber issued a decision on 26 May 2004. In that decision, the motion, as far as the challenge to the jurisdiction was concerned, was rejected. As far as the form of the indictment was concerned, most of the accused's complaints were rejected as complaints related to issues of evidence, to be decided at trial. The prosecution was, however, ordered to amend the indictment in that the crimes the accused is held responsible for and which were committed in Vojvodina were not properly charged. The prosecution appealed this decision on 10 June 2004.

176. Since 11 December 2003, the Registrar has imposed certain restrictions on the right of the accused to have communications with the outside world, and in particular the media. Such restrictions were a reaction to the accused violating the Rules of Detention by directly contacting the media and participating in an ongoing Serbian parliamentary election campaign in such a way that it was likely to frustrate the Tribunal's mandate. With a regular review of the decision, such restrictions

continued to apply until 1 July 2004 in relation to subsequent elections taking place in Serbia. The accused, however, remains entitled to communicate with his legal counsel (if applicable), diplomatic or consular representatives and his immediate family. His contact with his family is subject to live monitoring under conditions prescribed by the commanding officer of the Detention Unit. By letter of 30 June 2004, the accused was informed by the Deputy Registrar that such restrictions were discontinued.

177. By motion dated 14 June 2004, the accused requested his provisional release until the start of the trial against him. In its decision dated 23 July 2004, the Trial Chamber denied the motion on the basis that the formal requirements of rule 65, providing for provisional release, had not been met.

(32) Simatović and Stanišić case

178. The accused Franko Simatović and Jovica Stanišić are both charged under article 7 (1) of the Statute with four counts of crimes against humanity (persecutions, murder, deportation and inhumane acts (forcible transfer)), punishable under article 5, and with one count of violating the laws or customs of war (murder), punishable under article 3.

179. On 26 February 2004, the President assigned Judge Bert Swart to replace Judge Richard May, considering the need to expedite the proceedings in this case, and determined that the Trial Chamber in this case shall be composed of Judge Robinson, Judge Kwon and Judge Swart. Subsequently, upon appointment of Judge Iain Bonomy, by the Secretary-General of the United Nations as a permanent judge of the Tribunal, the President assigned Judge Bonomy to the present Trial Chamber. As a consequence, the President assigned Judge Bonomy to replace Judge Swart and determined that the Trial Chamber in this case shall, from 1 August 2004, be composed of Judge Robinson, Judge Kwon and Judge Bonomy. Preliminary motions have been filed and the pre-trial preparation is continuing under the direction of the pre-trial judge, Judge Kwon of Trial Chamber III.

180. Both accused filed applications for provisional release in January 2004. Oral hearings were held on 10 and 11 and 25 and 26 May 2004. Much of the hearing was taken up with expert evidence as to the medical condition of Mr. Stanišić. On 28 July 2004, the Trial Chamber issued its decisions granting the applications for both accused. On 29 July 2004, upon request from the prosecution, the Trial Chamber ordered the stay of the decisions so that the prosecution may seek leave to appeal the decisions.

181. Both accused filed requests for review of the Registrar's decision regarding their contribution to their legal fees. The Trial Chamber ordered the Registry to file its comments on the requests of both accused. With respect to the application from Mr. Simatović, the comments from the Registry were filed, as ordered, on 19 July 2004. With respect to the application from Mr. Stanišić, the comments from the Registry are expected to be filed by 3 September 2004. The Trial Chamber remains seized of the matter.

182. As ordered by the pre-trial judge, the prosecution filed its pre-trial brief on 19 July 2004. The respective defence pre-trial briefs were ordered to be filed by 15 November 2004.

183. During the reporting period, the Trial Chamber rendered 15 decisions, and Judge Kwon, the pre-trial judge, conducted three status conferences. Three conferences were convened by the senior legal officer pursuant to rule 65 ter.

(33) Simić case

184. The trial of Blagoje Simić, which commenced on 10 September 2001, concluded on 4 July 2003. The Trial Chamber sat for 234 trial days in total. The prosecution case ended on 3 September 2002. The prosecution presented 36 live witnesses, among them 2 expert witnesses. Seven witness statements taken pursuant to rule 92 bis were admitted (3 of those witnesses also testified orally before the Trial Chamber). In total 190 prosecution exhibits were admitted.

185. The defence case started on 12 November 2002 and ended on 4 June 2003. The Simić defence called in total 29 witnesses (9 gave live evidence, 6 gave deposition evidence pursuant to rule 71, and 14 gave statements pursuant to rule 92 bis, 5 of whom also testified live). The Tadić defence called in total 28 witnesses (10 gave live evidence, 6 gave deposition evidence, and 12 gave statements pursuant to rule 92 bis, 7 of whom also testified live). A total of 35 witnesses were called by the Zarić defence (16 gave live evidence, 6 gave deposition evidence, and 13 gave statements pursuant to rule 92 bis, 6 of whom also testified live). All three accused elected to testify on their own behalf. The defence jointly called five expert witnesses, three of them testified in court. Some 183 exhibits were tendered by the Simić defence, 196 by the Tadić defence and 56 by the Zarić defence. The Trial Chamber called one witness proprio motu.

186. The prosecution and the defence for the three accused filed confidential final trial briefs on 18 and 19 June 2003. Redacted public versions of those briefs were filed subsequently. Closing arguments were heard between 30 June and 4 July 2003.

187. The judgement was delivered on 17 October 2003. Mr. Simić was found guilty of a crime against humanity for persecutions based upon the unlawful arrest and detention of Bosnian Muslim and Croat civilians, cruel and inhumane treatment including beatings, torture, forced labour assignments, and confinement under inhumane conditions, and deportation and forcible transfer. The Trial Chamber, by a majority, sentenced Blagoje Simić to 17 years in prison. Miroslav Tadić was found guilty by a majority of the Trial Chamber of a crime against humanity for persecutions based upon deportation and forcible transfer. Mr. Tadić was sentenced, by a majority of the Trial Chamber, to eight years of imprisonment. The Trial Chamber, by a majority, found Simo Zarić guilty of a crime against humanity for persecutions, based upon cruel and inhumane treatment including beatings, torture, and confinement under inhumane conditions. Mr. Zarić was sentenced by a majority of the Trial Chamber to six years in prison.

(34) Stanković case

188. Radovan Stanković was arrested by the Stabilization Force (SFOR) on 9 July 2002 and transferred to the Tribunal the following day. The accused's initial appearance took place on 12 July 2002. Mr. Stanković is charged, along with two other accused who are still at large, with four counts of crimes against humanity (enslavement and rape) and four counts of violations of the laws or customs of war (rape and outrages upon personal dignity) for acts allegedly committed against

Muslim women while serving in a paramilitary unit as a prison guard in "Karaman's house" in Miljevina near Foča. The case is assigned to Trial Chamber I.

189. The prosecution filed its pre-trial brief on 1 April 2004, and the defence filed its pre-trial brief on 21 June 2004. The case is ready for trial. Owing to threats made by the accused to reveal the identity of protected prosecution witnesses, the Registrar ordered certain restrictions (surveillance) of his communications with family and friends, and these restrictions were upheld by the Trial Chamber.

(35) Strugar case

190. Pavle Strugar was originally indicted, together with Miodrag Jokić and Vladimir Kovacević, for his alleged criminal conduct in connection with the Yugoslav National Army's military campaign in and around Dubrovnik in 1991. The proceedings against Miodrag Jokić were separated on 17 September 2003 upon his entry of a guilty plea and, at the request of the prosecution, the proceedings against Pavle Strugar were separated on 26 November 2003 just prior to the commencement of his trial.

191. The third amended indictment, which relates to Mr. Strugar only, alleges that in the course of the attack by the Yugoslav National Army on the historic Old Town of Dubrovnik in Croatia on 6 December 1991, two people were killed, three were seriously injured and many of the buildings of historic and cultural significance in the Old Town, including, inter alia, institutions dedicated to religion and the arts and sciences, were damaged. The indictment alleges six counts of violations of the laws or customs of war: three relating to crimes against persons, namely murder, cruel treatment and attacks on civilians, and three relating to crimes against property, namely devastation not justified by military necessity, attacks on civilian objects and destruction of institutions dedicated to, inter alia, religion and the arts and sciences. The accused is charged with individual criminal liability under article 7 (1) of the Statute for allegedly ordering, and aiding and abetting the aforementioned crimes, as well as with superior responsibility pursuant to article 7 (3) of the Statute for the crimes of his subordinates.

192. The pre-trial judge of the Chamber initially seized of the case held the pre-trial conference on 15 December 2003. The trial itself commenced with opening statements from the prosecution on 16 December 2003 before a newly constituted Chamber comprising Judges Kevin Parker (presiding), Krister Thelin and Christine Van Den Wyngaert.

193. The question of the accused's fitness to stand trial was first raised by the defence at the pre-trial conference. The pre-trial judge, having considered the medical records of the accused on which the defence relied, found no reason for postponing the commencement of the trial. The issue was again raised on the first day of the trial. Having examined a written report on the medical condition of the accused prepared at the instigation of the Chamber, and the medical records of the accused on which the defence relied, the Trial Chamber found no justification for ordering any further examination. On 3 February 2004, the defence filed a formal motion seeking to terminate the proceedings on the basis that Pavle Strugar was unfit to stand trial. The motion was supported by a written report from a medical expert. At the invitation of the Chamber, the prosecution retained its own medical experts who filed their report on the accused's fitness to stand trial on 22 March 2004. At the request of the defence, the Chamber granted an oral hearing on the

matter, and accordingly, on 28 and 29 April 2004, the defence expert and two experts for the prosecution gave evidence. On 26 May 2004, the Trial Chamber issued its decision, finding that the accused was fit to stand trial.

194. The prosecution case comprising 29 viva voce witnesses and over 200 exhibits was concluded, after nearly five months of daily sittings, on 18 May 2004. The defence filed a motion for judgement of acquittal pursuant to rule 98 bis of the Rules on 28 May 2004. The Chamber's decision on the defence motion was issued on 21 June 2004. All of the counts in the Indictment were retained; however, several underlying factual allegations were dismissed, including a substantial number of the allegations relating to damage to buildings and structures listed in a separate schedule to the Indictment. The defence case commenced on 28 June 2004 and concluded on 22 July 2004. A single day's evidence in rebuttal was heard on 23 July 2004 and no rejoinder evidence was called. Closing arguments were scheduled for the beginning of September 2004, with the aim of rendering the judgement by the end of that month.

(b) Contempt cases

(1) Confidential cases

195. An amicus curiae has been appointed in a confidential contempt case which is still pending before Trial Chamber I. Trial Chamber I is seized of two other contempt cases.

(2) Jovanović case

196. In October 2002, Trial Chamber III found that there were sufficient grounds to proceed against Duško Jovanović, director of a media company publishing the Montenegrin newspaper *DAN*, for contempt of court pursuant to rule 77 (A) (ii), specifically for allegedly disclosing to the general public the identity of a protected witness in the Milošević case in knowing violation of an order of a Trial Chamber. The prosecution filed an indictment against Jovanović on 8 October 2002. The accused surrendered to the Tribunal and pleaded not guilty to the charge of contempt on 5 December 2003. Initially assigned to Trial Chamber II, the case was reassigned to Trial Chamber III on 8 December 2003.

197. A status conference was held in January 2004 and dates were set for submission of briefs and for the matter to be heard in May 2004. In February 2004, the defence filed a preliminary motion seeking dismissal of the contempt charge. This motion and all other proceedings were suspended in March 2004 following the filing of a request by the prosecution to withdraw the indictment. The prosecution motion was supported by an understanding between the parties whereby the accused agreed to publish a written statement acknowledging full personal and professional responsibility for publishing the details of a protected witness in violation of protective measures orders issued by the Trial Chamber.

198. On 19 April 2004, the Trial Chamber granted the prosecution motion to withdraw the indictment following the publication of the agreed statement and terminated the proceedings against Jovanović.

(3) Maglov case

199. Milka Maglov, former defence co-counsel in the Brđanin case, is charged with contempt of court pursuant to rules 77 (A) (ii) and 77 (A) (iv), for allegedly intimidating a witness in that case and disclosing to the general public the identity of that same witness, in knowing violation of an order of a Trial Chamber. By order of the President, the case is dealt with by the same Chamber before which the contempt allegedly took place.

200. At her initial appearance on 4 December 2003, Ms. Maglov pleaded not guilty to the two charges. On 6 February 2004, the Chamber upheld a motion by the amicus curiae Prosecutor to amend the indictment, expanding the two charges and adding a third (attempted interference or intimidation). The prosecution case was heard from 16 to 19 February 2004. A motion for acquittal brought by Ms. Maglov was dismissed by the Chamber on 19 March 2004. Ms. Maglov's request for certification to appeal the decision was denied by the Chamber because it would not materially advance the proceedings.

201. The start of the defence case was delayed when, on 4 May 2004, counsel for Ms. Maglov made a confidential application under rule 15 for the disqualification and withdrawal of Judges Agius (Presiding), Janu and Taya on the basis of a number of factors that might affect their impartiality or give the perception that they were not impartial. The application was dismissed by a decision of the Bureau dated 11 June 2004 and the defence case was rescheduled for 20 to 22 July 2004. The defence case was further delayed when, on 15 July 2004, the respondent filed an unopposed motion for continuance on the basis that she was unfit to stand trial. The same day, the Chamber issued a decision which inter alia adjourned the case until further notice and directed the Registry to identify a psychiatrist who the Chamber could appoint with a view to establishing the respondent's fitness to stand trial.

2. Appeals

202. The Appeals Chamber disposed of 17 interlocutory appeals and 4 appeals from judgement (Krnojelać, Vasiljević, Krstić and Blaškić) during the reporting period. It also ruled on one confidential request for review. Currently there are 4 interlocutory appeals and 11 appeals from judgement pending. Eight of the pending appeals from judgement were filed with the Appeals Chamber during the current reporting period, a significant increase from the two appeals filed during the previous reporting period. The other three appeals pending date from the previous reporting period.

(a) Interlocutory appeals

203. Interlocutory appeals from decisions of Trial Chambers generally arise pursuant to four specific rules: (a) rule 65 requests for provisional release; (b) rule 72 decisions on preliminary motions; (c) rule 73 decisions on other motions; and (d) rule 108 bis on state requests for review.

204. Sub-rule 65 (D) provides that any Trial Chamber decision under rule 65 on provisional release shall be subject to appeal in cases where leave is granted by a bench of three judges of the Appeals Chamber, upon good cause being shown. Trial Chamber decisions under rule 72 involving a challenge to jurisdiction under sub-rule 72 (A) (i) may be appealed to the full Appeals Chamber, provided that a bench of three judges of the Appeals Chamber, pursuant to rule 72 (E), decides that the

appeal is from a decision on a motion challenging jurisdiction as defined by rule 72 (D). Rule 72 provides that appeals from preliminary motions other than those challenging jurisdiction require certification by the Trial Chamber before which the motion has been filed. The Trial Chamber may certify an appeal from its decision if it considers the decision to involve an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and the resolution of which issue by the Appeals Chamber may materially advance the proceedings. Under rule 73, decisions on other motions are without interlocutory appeal save with certification by the Trial Chamber, which may grant certification on the same grounds as provided for in rule 72. Rule 108 bis provides that a State directly affected by an interlocutory decision of a Trial Chamber may file a request for review of the decision by the Appeals Chamber if that decision concerns issues of general importance relating to the powers of the Tribunal. Filings before the Appeals Chamber are governed by the Practice Direction on the Length of Briefs and Motions (5 March 2002) and the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the International Tribunal (7 March 2002).

(1) Blagojević et al. case

205. On 1 August 2003, Vidoje Blagojević filed his appeal brief after certification by the Trial Chamber ex rule 73 to lodge an appeal against its decision of 3 July 2003 in which it was denied the motion to instruct the Registrar to appoint new lead and co-counsel for Vidoje Blagojević, in which he appeals from the decision on independent counsel for Vidoje Blagojević's motion to instruct the Registrar to appoint new lead and co-counsel issued by Trial Chamber I on 3 July 2003. The appellant alleged that the Trial Chamber erred by denying his motion to direct the Registrar to withdraw his assigned counsel and to assign new counsel on the ground that he had lost all confidence and trust in that counsel. The Appeals Chamber in a decision of 15 September 2003 (public decision, 7 November 2003) (Judges Shahabuddeen (presiding), Pocar, Hunt, Güney and Weinberg de Roca), dismissed the appeal on the ground that the appellant had failed to demonstrate any error by the Trial Chamber that would warrant the interference of the Appeals Chamber and that it was in the interests of justice that the appellant retain his assigned counsel.

(2) Brđanin case

206. Following certification by the Trial Chamber pursuant to rule 73, the prosecution filed an appeal from the Trial Chamber's decision pursuant to rule 98 bis on the defence motion for acquittal of 10 December 2003. The appeal was limited to that part of the decision which purported to acquit the accused, Radoslav Brđanin, of Count 1 of the Indictment, genocide, in the context of the third category of joint criminal enterprise liability. The prosecution argued that the Trial Chamber erred in law in: first, concluding that the third category of joint criminal enterprise liability was incompatible with the specific intent requirement of genocide; and secondly, dismissing proceedings under a mode of liability at the rule 98 bis stage of the trial. The prosecution requested the Appeals Chamber to reverse the decision, and to reinstate the proceedings on the charge of genocide under the third category of joint criminal enterprise liability. On 19 March 2004, the Appeals Chamber (Judges Meron (presiding), Shahabuddeen, Güney, El Mahdi and Weinberg de Roca) allowed the appeal, finding that the Trial Chamber had erred by

conflating the mens rea requirement of the crime of genocide with the mental requirement of the mode of liability by which criminal responsibility is alleged to attach to the accused. The fact that the third category of joint criminal enterprise is distinguishable from other heads of liability was considered irrelevant, as long as the standard applicable to that head of liability, i.e., "reasonably foreseeable and natural consequences", is established, criminal liability can attach to an accused for any crime that falls outside of an agreed-upon joint criminal enterprise. The decision of the Trial Chamber to acquit Mr. Brđanin for genocide with respect to the third category of joint criminal enterprise liability was reversed. Given that the prosecution was granted the relief it sought, the Appeals Chamber found it unnecessary to consider the prosecution's second ground of appeal.

(3) Confidential

207. There were three confidential interlocutory appeals considered and disposed of during the reporting period.

(4) Hadžihasanović and Kubura case

208. On 29 December 2003, following certification by the Trial Chamber, the Prosecutor filed its appeal pursuant to rule 73 from the Trial Chamber's decision on the refreshment of a witness's memory and on a motion for certification to appeal of 19 December 2003. The prosecution submitted that the Trial Chamber erred by prohibiting the use of prior written statements to refresh the recollection of witnesses during examination-in-chief. In its decision of 2 April 2004, the Appeals Chamber (Judges Meron (presiding), Pocar, Shahabuddeen, Güney and Weinberg de Roca), considered its previous finding in *Prosecutor v Simić*, 23 May 2003, that a prior statement may be used to refresh the memory of a witness under cross-examination. Therefore, the same conclusion should apply to the question of refreshing a witness's memory during examination-in-chief. The Appeals Chamber also considered that as the prosecution was not seeking to admit the prior statement in lieu of oral testimony, but rather sought to elicit the oral testimony after the memory of the witness had been refreshed, the statement shown to the witness need not satisfy the requirements of rule 92 bis of the Rules of Procedure and Evidence. The Appeals Chamber allowed the prosecution's appeal and reversed the Trial Chamber decision.

(5) Halilović case

209. On 13 April 2004, Sefer Halilović filed an appeal from a 16 February 2004 decision of the Trial Chamber certified pursuant to rule 73. The accused Mr. Halilović had sought to interview three individuals who had been placed on the prosecution's list of proposed witnesses. They had refused to meet with the defence who then requested the Trial Chamber to issue subpoenas compelling the witnesses to attend. The Trial Chamber rejected this motion, noting that all three witnesses would be subject to cross-examination at trial and that the defence had not specified what would be covered during the pre-trial interviews that could not be adequately covered during cross-examination. On 21 June 2004, the Appeals Chamber (Judges Meron (presiding), Pocar, Shahabuddeen, Güney and Weinberg de Roca), by majority (Judge Weinberg de Roca dissenting), allowed the appeal in part. The majority found that the Trial Chamber had erred in rejecting the defence request for subpoenas solely on the basis that the defence would have the opportunity to cross-

examine the witnesses. The Appeals Chamber found that the "Trial Chamber should have examined whether the defence has presented reasons for the need to interview these witnesses which went beyond the need to prepare a more effective cross examination". The decision was reversed and the matter remitted to the Trial Chamber with directions to reconsider it in light of the Appeals Chamber's decision, and to issue subpoenas should its renewed examination disclose a need to interview the witnesses.

(6) Limaj, Bala and Musliu case

210. On 22, 23 and 24 September 2003, respectively, Fatmir Limaj, Haradin Bala and Isak Musliu pursuant to rule 65 applied for leave to appeal three separate decisions of the Trial Chamber, which had rejected their requests for provisional release. The three accused were all seeking leave to appeal arguing good cause pursuant to rule 65 (D). The three accused argued inter alia that the Trial Chamber had erred in: not granting them an oral hearing; failing to inform the parties of its decision; and not placing the burden of proof on the prosecution to demonstrate that the accused were not entitled to provisional release. Messrs. Bala and Musliu also argued that the Trial Chamber had erred in concluding that, owing to the seriousness of the charges against them they would flee and likely not appear for trial. On 31 October 2003, a bench of the Appeals Chamber which comprised of Judges Schomburg (presiding), Güney and Weinberg de Roca held that none of the appellants had demonstrated that the Trial Chamber might have erred in the exercise of its powers under rule 65 (B) and that within the meaning of rule 65 (D), no good cause had been shown. Leave to appeal was thus denied in all three cases.

(7) Mejakić et al. case

211. On 13 July 2004, the prosecution filed a prosecution's appeal brief against the Trial Chamber's decision on prosecution's second motion to resolve conflict of interest regarding attorney Jovan Simić issued on 17 June 2004. This appeal was filed pursuant to rule 73 (C) of the Rules following certification granted by the Trial Chamber on 6 July 2004. The prosecution submitted its appeal that the Trial Chamber erred in law in finding that the representation of two accused by one and the same counsel was not likely to affect the integrity of the proceedings or otherwise irreversibly prejudice the administration of justice. This interlocutory appeal is pending.

(8) Milošević case

212. On 13 May 2003, the Prosecutor appealed a 16 April 2003 decision of the Trial Chamber certified pursuant to rule 73. The prosecution submitted that the Trial Chamber had erred in finding certain written statements inadmissible under rule 89 and that "such written statements are only admissible under rule 92 bis and by no other means. The prosecution submitted that it be allowed to use such written statements under rule 89 (F) as evidence-in-chief where the witness is available for cross-examination. On 30 September 2003, the Appeals Chamber (Judges Pocar (presiding), Jorda, Shahabuddeen, Hunt and Güney) by majority (Judge Hunt dissenting), allowed the appeal finding as a matter of law that the rules allowed for the admission of a written witness statement under rule 89 (F) when the witness is: (a) present in court, (b) available for cross-examination and questioning by the judges and (c) attests that the statement accurately reflects his or her declaration and

what he or she would say when examined. The matter was returned to the Trial Chamber for further consideration of the admission of evidence in accordance with the Appeals Chamber decision.

213. On 21 May 2003, the prosecution filed an interlocutory appeal from a 10 April 2003 decision of the Trial Chamber certified pursuant to rule 73. The prosecution had requested the Trial Chamber to take judicial notice of 482 adjudicated facts derived from four other cases which had already been subject to final appeal judgements before the Tribunal. On 28 October 2003, the Appeals Chamber (Judges Pocar (presiding), Shahabuddeen, Hunt, Güney and Weinberg de Roca), by majority (Judge Hunt dissenting), issued its decision. The Appeals Chamber defined judicial notice pursuant to rule 94 (A) as where the material is notorious, whereas in the case of rule 94 (B) the basis is that the material is the subject of an adjudication made by another Chamber. It considered that rule 94 (A) commands the taking of judicial notice, but that rule 94 (B) gives a discretion to do so. The Appeals Chamber returned the matter to the Trial Chamber for it to review the taking of judicial notice of the adjudicated facts in accordance with its decision.

214. On 1 October 2003, the amici curiae filed an interlocutory appeal from a 17 September 2003 order of the Trial Chamber certified pursuant to rule 73. The Trial Chamber had granted the accused an adjournment of three months to prepare his defence, and required him to present within six weeks a list of witnesses and evidentiary exhibits he intended to present. The amici argued that both periods set out by the Trial Chamber were unreasonably short for the accused to prepare a meaningful defence, given that: the case had come to trial in a relatively short period of time; there had been a considerable amount of time available to the prosecution; and the accused was suffering from ill health. On 20 January 2004, the Appeals Chamber (Judges Meron (presiding), Pocar, Shahabuddeen, Mumba and Weinberg de Roca) issued its decision. The Appeals Chamber deemed the appeal by the amici curiae admissible in the interests of justice. In dismissing the appeal, the Appeals Chamber held that the Trial Chamber had acted with proper sensitivity to the concerns of a self-representing defendant and that there had been no violation of the accused's right to a fair trial by the time limits imposed. The Appeals Chamber noted that the Trial Chamber had a continuing obligation to ensure a fair trial to the accused and that it could allow additional adjournments in the future if it were shown that the accused lacked sufficient time or resources for the preparation of his defence.

(9) Milutinović et al. case

215. On 13 May 2003, an interlocutory appeal was filed by co-accused Dragoljub Ojdanić from a 6 May 2003 Trial Chamber decision which had dismissed Mr. Ojdanić's motion challenging the jurisdiction of the Tribunal over crimes committed in the territory of Kosovo. The appeal was stayed pending the resolution of Mr. Ojdanić's request to the Registrar for additional funds for his defence. The appeal briefing scheduled resumed on 16 January 2004. On appeal, Mr. Ojdanić submitted that the Trial Chamber erred in finding that the Tribunal had jurisdiction to try him for crimes allegedly committed in the territory of Kosovo as the Security Council did not have the power to vest the Tribunal with jurisdiction over the territory of the Federal Republic of Yugoslavia, which at that time, was not a member of the United Nations. On 12 May 2004 with reasons issued on 8 June 2004, the Appeals Chamber (Judges Meron (presiding), Pocar, Shahabuddeen,

Mumba and Güney) dismissed the appeal. The Appeals Chamber considered that the Appeals Chamber in its 2 October 1995 *Prosecutor v Tadić* jurisdiction decision held that the establishment of the International Tribunal fell squarely within the powers of the Security Council under Article 41 of the Charter and that the Tribunal had been lawfully established as a measure under Chapter VII of the Charter. Further, article 1 of the Statute of the Tribunal gave jurisdiction over the "former Yugoslavia" and all relevant times Kosovo was a part of that territory. The Appeals Chamber held that the Tribunal had jurisdiction over Mr. Odjanić for crimes allegedly committed in the territory of Kosovo and dismissed the appeal.

216. On 23 July 2003, an interlocutory appeal was filed by Mr. Ojdanić from an 8 July 2003 Trial Chamber decision certified pursuant to rule 73. The Trial Chamber decision on motion for additional funds had rejected Mr. Ojdanić's request for a review of a decision of the Registrar which had rejected his request for additional funds for the preparation of his defence during the pre-trial stage. The Trial Chamber held that the Registrar has the primary responsibility for determination of matters relating to remuneration of counsel under the Tribunal's legal aid system which has been elaborated in conjunction with the judges taking into account the complexity of the case, and the fact that counsel have agreed to represent indigent accused fully aware of this system of remuneration. The Registrar filed a response on 22 August 2003. In support of Mr. Ojdanić's appeal, the Association of Defence Counsel of ICTY requested leave to file an amicus curiae brief on 29 August 2003. On 13 November 2003, the Appeals Chamber by majority (Judges Weinberg de Roca (presiding), Pocar, Shahabuddeen, Hunt and Güney), dismissed the appeal, Judge Hunt dissenting. The Appeals Chamber affirmed that the Registrar had primary responsibility in the determination of matters relating to remuneration of counsel under the legal aid system of the Tribunal. The Appeals Chamber held first that the Trial Chamber had correctly considered that the Registrar had primary responsibility for the determination of matters relating to remuneration of counsel under the legal aid system and that the appellant had failed to show that the Trial Chamber committed any error in accepting the Registrar's findings. Secondly, the appellant had not shown how the Trial Chamber had failed to address the imbalance of resources between the prosecution and defence in a way that violated the principle of equality of arms. Thirdly, the appellant had not shown how the Registrar had erred in his assessment of the request for additional funds. The appeal was dismissed along with the motion for leave to file the amicus curiae brief.

(10) Nikolić (Dragan) case

217. On 6 August 2003, the Appeals Chamber (Judges Meron (presiding), Pocar, Shahabuddeen, Güney and El Mahdi) rejected a request filed by Dragan Nikolić on 20 June 2003 for clarification and an expansion of reasoning of the Appeals Chamber decision on interlocutory appeal concerning legality of arrest issued on 5 June 2003. While noting that the Appeals Chamber has an obligation to give reasoned opinions, the Chamber stated that it need not be required to spell out every step in its reasoning. The request was rejected, and declared frivolous.

(11) Šešelj case

218. On 12 January 2004, an interlocutory appeal was filed by Vojislav Šešelj from a 30 September 2003 Trial Chamber decision certified pursuant to rule 73. The Trial Chamber had rejected Šešelj's request for permission for the visit in the Detention

Unit of Bishop Filaret of Mileševo pursuant to rule 70 of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Tribunal or otherwise Detained on the Authority of the Tribunal on the basis that he is entitled to receive a visit from a representative of his religion and that the existence of a ban on Bishop Filaret from entering any member State of the European Union should not constitute a ground to refuse the visit because the Tribunal should be considered "ex-territorial". On 29 January 2004, the Appeals Chamber (Judges Meron (presiding), Pocar, Shahabuddeen, Güney and Weinberg de Roca) considered that the Detention Unit Regulations to Govern the Supervision of Visits to and Communications with Detainees (IT/98/Rev.3) of July 1999, provided that all visitors, other than counsel or a representative of the Tribunal, should first apply to the Registrar for permission to visit a named detainee. Therefore, the determination of which visits an accused is allowed to receive while at the Detention Unit falls within the competence of the Registry, and not of Chambers. The Appeals Chamber dismissed the appeal, and Mr. Šešelj was instructed to direct any future visitation requests to the Registrar.

219. On 28 June 2004, an interlocutory appeal was filed by the prosecution from the Trial Chamber's decision on motion by Vojislav Šešelj challenging jurisdiction and form of indictment, of 3 June 2004 pursuant to rule 72 (B) (i). The prosecution submitted that it was a motion challenging jurisdiction and thus within rule 72 (D). The prosecution submitted that the Trial Chamber had erred in law in three ways: (a) it had applied an incorrect and narrow standard for the jurisdictional elements charged under article 5 of the Statute; (b) it had interpreted too narrowly the words "committed in armed conflict" and (c) because of the above errors, the Trial Chamber had erred when it held that article 5 could apply to crimes alleged to have occurred in Vojvodina only if an armed conflict existed there at the relevant time. The prosecution sought clarification from the Appeals Chamber of the phrase "committed in armed conflict", and a finding that the Trial Chamber had erred in requiring an armed conflict in Vojvodina to have occurred. On 29 July 2004, a bench of three judges of the Appeals Chamber (Judges Meron (presiding), Shahabuddeen and Güney) decided, pursuant to rule 72 (E) of the Rules, that the Appeal was validly filed, on the ground that, in the light of the case-law of the Appeals Chamber for both ICTY and ICTR, an appeal concerning whether a charge in an indictment falls within a statutory grant of jurisdiction meets the requirements of rule 72 (D) of the Rules and may proceed. The interlocutory appeal is pending.

(12) Stanišić and Simatović case

220. On 29 July 2004, the prosecution filed an application for leave to appeal a decision on provisional release pursuant to rule 65 (D) and rule 65 (F) of the Rules in respect of the granting of provisional release of Jovica Stanišić by the Trial Chamber's decision of 28 July 2004. The prosecution submitted that the Trial Chamber had erred: finding that Mr. Stanišić showed some degree of cooperation with the prosecution; finding that the fact that the information provided by Mr. Stanišić lacked value did not by itself disprove cooperation by him; by failing to give proper consideration to the seriousness of crimes with which Mr. Stanišić was charged; by giving no weight to the Prosecutor's statement to the Security Council complaining of a consistent failure on the part of Serbia and Montenegro to comply with its obligations under article 29 of the Statute of the Tribunal; and finding that the fear of certain witnesses reflected more a generalized concern rather than an

apprehension linked to any specific acts of Mr. Stanišić. This interlocutory appeal is pending.

221. On 29 July 2004, the prosecution filed another application for leave to appeal a decision on provisional release pursuant to rule 65 (D) and rule 65 (F) of the Rules in respect of the granting of provisional release of Mr. Simatović by the Trial Chamber's decision of 28 July 2004. The prosecution made identical submissions as summarized in the previous paragraph. This interlocutory appeal is pending.

(b) Appeals on the merits

222. During the reporting period, seven new appeals from final trial chamber judgements were filed before the Appeals Chamber: in the Deronjić, Galić, Jokić, Dragan Nikolić, Momir Nikolić, Simić and Stakić cases. This is a significant increase from the two appeals filed during the previous reporting period (the Vasiljević and Martinović/Naletilić cases). There were also four appeals from trial chamber judgements pending from the previous reporting period: the Blaškić, Kordić/Čerkez, Kvočka and Martinović/Naletilić cases. Four judgements were rendered: in the Blaškić, Krnojelac, Krstić and Vasiljević cases.

(1) Babić case

223. On 16 July 2004, Milan Babić filed a motion pursuant to rule 127 of the Rules for an extension of time to file his notice of appeal. By an order of 23 July 2004, the President of the Tribunal assigned the appellate bench (comprising Judges Mumba (presiding), Pocar, Shahabuddeen, Güney and Schomburg). By a decision of 28 July 2004, Judge Mumba was designated as the pre-appeal judge, who, on the same day, granted an extension of time for Mr. Babić to file his notice of appeal no later than 17 days after the filing of the Bosnian/Croatian/Serbian aversion of the trial judgement. The Appeals Chamber is currently awaiting the filing of the notice of appeal.

(2) Blaškić case

224. Tihomir Blaškić filed a notice of appeal on 17 March 2000 from the Trial Chamber's judgement of 2 March 2000. Pursuant to requests by the parties, the briefing schedule was suspended by decisions issued on 19 May 2000 and 26 September 2000 and resumed by a decision issued on 16 October 2001. The appeal brief was filed on 14 January 2002, the prosecution's respondent's brief on 1 May 2002, and the appellant's brief in reply on 3 June 2002. The composition of the bench was revised on 18 June 2003, as follows: Judges Meron (presiding), Pocar, Hunt, Güney and Weinberg de Roca. On 6 August 2003, President Meron, assigned Judge Schomburg to replace Judge Hunt. On 9 September 2003, President Meron assigned Judge Mumba to replace himself. The Appeals Chamber in this case now comprises Judges Pocar (presiding), Schomburg, Mumba, Güney and Weinberg de Roca.

225. The appellant has filed four motions for the admission of additional evidence on appeal pursuant to rule 115 of the Rules, seeking the admission of over 8,000 pages of material as additional evidence on appeal. The first rule 115 motion sought the admission of government documents from the Republic of Croatia, including the Croatian Information Service, the Croatian Ministry of Defence, the Office of the President of Croatia, and the Croatian Community of Herceg-Bosna. The evidence

sought to be admitted in the second rule 115 motion consisted of 13 documents disclosed to the appellant after the issuance of the Trial Chamber judgement by the prosecution under rule 68; two documents from the Croatian State Archives; nine exhibits tendered in another trial; and portions of testimony of 16 witnesses who testified in open session in another trial. In general, the first two additional evidence motions purported to challenge certain conclusions of the Trial Chamber regarding the responsibility of the appellant for crimes committed during April and July 1993 in Ahmići, Stari Vitez, Busovača and Kiseljak. The third and fourth rule 115 motions were filed confidentially, a public redacted version of the fourth motion, which contained evidence disclosed by the prosecution pursuant to rule 68 as well as documents from the archives of the Republic of Bosnia-Herzegovina, was filed on 8 August 2003.

226. The Appeals Chamber analysed the additional evidence submitted by the appellant in the first three rule 115 motions and, in an order of 31 October 2002, set out those items that it considered were clearly admissible. On 21 November 2002, the Appeals Chamber held a hearing during which the parties presented oral argument on whether the clearly admissible evidence justified a new trial by a Trial Chamber, on some or all of the counts. On 31 October 2003, the Appeals Chamber issued its decision on the first, second, and fourth rule 115 motions and admitted 108 items as additional evidence as well as rebuttal material proffered by the prosecution. The Appeals Chamber issued a separate confidential decision with respect to the third rule 115 motion.

227. The Appeals Chamber has been seized of several requests for access to confidential material submitted in this case, pursuant to rule 75 by other accused and appellants, particularly from the related Lašva Valley cases. In addressing these numerous requests, the Appeals Chamber was asked to vary certain protective measures issued by the Trial Chamber.

228. After issuing its decisions on the admission of additional evidence on appeal, as a number of items were admitted, the Appeals Chamber heard six witnesses in the evidentiary portion of the hearing on appeal, which took place from 8 to 11 December 2003. The Appeals Chamber heard oral arguments on the appeal on 16 and 17 December 2003 and is currently deliberating.

229. On 29 July 2004, the Appeals Chamber delivered its judgement in this appeal. The Appeals Chamber, inter alia, allowed by majority, Judge Weinberg de Roca dissenting, the appellant Blaškić's ground of appeal concerning his responsibility for the crimes committed in Ahmići, Šantići, Pirići and Nadioi on 16 April 1993 and reversed his convictions pursuant to both article 7 (1) and article 7 (3) of the Statute. The Appeals Chamber unanimously allowed the appellant Blaškić's appeal against his convictions under both article 7 (1) and article 7 (3) of the Statute for the crimes committed in parts of the Vitez Municipality other than Ahmići, Šantići, Pirići and Nadioi in April, July and September 1993. Further, the Appeals Chamber unanimously allowed the appellant's appeals against his convictions under article 7 (1) of the Statute for the crimes committed in Lončari and Oćehnići in the Busovača Municipality in April 1993 and in the Kiseljak Municipality in April 1993, while finding that in respect of the crimes committed in these two municipalities, no finding was made by the Trial Chamber pursuant to article 7 (3) of the Statute. Moreover, the Appeals Chamber unanimously allowed the Appellant Blaškić's appeal against his convictions under article 7 (1) of the Statute for the

detention-related crimes charged under counts 17, 18, and 20 of the Indictment. However, the Appeals Chamber affirmed, unanimously, the appellant's convictions under: (a) count 15 pursuant to article 7 (3) of the Statute for the detention-related crimes committed in the relevant detention facilities; (b) count 16 pursuant to article 7 (1) of the Statute for ordering the use of protected persons for the construction of defensive military installations; and (c) count 19 under article 7 (1) of the Statute for the inhuman treatment of detainees occasioned by their use as human shields, and found that no finding was made by the Trial Chamber pursuant to article 7 (3) of the Statute under counts 15 or 16 in relation to the use of protected persons for the construction of defensive military installations, under counts 17 or 18 in relation to the taking of hostages, or under counts 19 and 20 for the inhuman treatment of detainees occasioned by their use as human shields. The Appeals Chamber dismissed the appellant's appeal against convictions in all other respects. Furthermore, the Appeals Chamber allowed unanimously, in part, the appellant's ground of appeal against the sentence, and imposed by majority, Judge Weinberg de Roca dissenting, a new sentence of nine years's imprisonment upon the appellant. Judge Schomburg appended a separate opinion limited to the sentence. Judge Weinberg de Roca appended a partial dissenting opinion.

230. On 29 July 2004, upon application of Blaškić, the President of the Tribunal granted him early release to be effective 2 August 2004.

(3) Deronjić case

231. On 28 April 2004, Miroslav Deronjić filed a notice of appeal from the Trial Chamber sentencing judgement of 30 March 2004. The Appeals Chamber comprises Judges Meron (presiding), Pocar, Shahabuddeen, Güney and Weinberg de Roca, with Judge Weinberg de Roca designated as the pre-appeal Judge. On 11 May 2004, an extension of time was granted to the appellant to file his Appeal Brief not later than 30 days after the Trial Chamber judgement had been translated into a language he understands, Bosnian/Croatian/Serbian. The Appeals Chamber is currently awaiting the filing of the appeal brief, response brief and brief in reply.

(4) Galić case

232. On 18 December 2003, the prosecution filed a notice of appeal from the Trial Chamber judgement of 5 December 2003 and filed its appeal brief on 2 March 2004. Stanislav Galić was granted an extension of time to file his notice of appeal within 30 days of the filing of the French translation of the trial judgement, the working language of defence counsel. The notice of appeal was subsequently filed on 4 May 2004. The Appeals Chamber comprises Judges Meron (presiding), Pocar, Shahabuddeen, Mumba and Schomburg, with Judge Mumba as the pre-appeal Judge. On 18 June 2004, the defendant filed a motion for the admission of additional evidence pursuant to rule 115 of the Rules. The Appeals Chamber is currently considering the motion and awaiting the filing of the appeal brief, response brief and brief in reply.

(5) Jokić (Miodrag) case

233. On 16 April 2004, Miodrag Jokić filed a notice of appeal from the Trial Chamber sentencing judgement of 18 March 2004. The Appeals Chamber comprises Judges Weinberg de Roca (presiding), Shahabuddeen, Mumba, Güney and

Schomburg, with Judge Weinberg de Roca designated as the pre-appeal judge. On 2 and 21 June 2004, the appellant filed two motions for the admission of additional evidence pursuant to rule 115 of the Rules. On 30 June 2004, the appellant filed his appeal brief. The Appeals Chamber is currently considering the motions and awaiting the filing of the response brief and brief in reply.

(6) Kordić and Čerkez case

234. The Trial Chamber Judgement was delivered on 26 February 2001. Notices of appeal were filed before the Appeals Chamber by all parties to the case: Messrs. Kordić and Čerkez on 12 March 2001 and by the prosecution on 13 March 2001. Following a request for an extension of time, Judge Hunt, the pre-appeal Judge, ordered that the appeal briefs be filed by 9 August 2001. The composition of the bench was changed two times by orders of the President. Since 9 September 2003, the bench of the Appeals Chamber has comprised Judges Schomburg (presiding), Pocar, Mumba, Güney and Weinberg de Roca, with Judge Schomburg appointed as pre-appeal Judge on 6 October 2003.

235. The filing of briefs in this appeal was completed on 20 October 2001, with a supplemental brief filed by Mr. Kordić on 23 February 2004. However, since June 2001, Messrs. Kordić and Čerkez have filed a number of requests for access to materials in the possession of the authorities of Bosnia and Herzegovina and the prosecution, and to materials in other cases before the Tribunal, in relation to their intention to file rule 115 motions to present additional evidence.

236. The prosecution completed its disclosure pursuant to rule 68 on 5 March 2003. Mr. Čerkez filed a motion to admit additional evidence on 7 April 2003 and a supplemental motion on 9 April 2003. Mr. Kordić did not file any application under rule 115 for the admission of additional evidence. On 26 May 2003, Mr. Kordić sought access to additional evidence filed in another appeal and Mr. Čerkez joined the request on 28 May 2003. On 26 March 2004, the Appeals Chamber dismissed both of Mr. Čerkez's rule 115 motions for the admission of additional evidence of 7 April 2003 and the supplemental motion of 9 April 2003. On 12 December 2003, the Appeals Chamber dismissed Mr. Čerkez's request for provisional release filed on 13 November 2003.

237. On 12 February 2004, a rule 65 ter (I) meeting was held in the presence of the pre-appeal judge and the parties. The parties agreed to provide the Appeals Chamber monthly status reports to keep the Chamber abreast with the developments in the case. On 16 February 2004, the prosecution withdrew its first ground of appeal. On 31 March 2004, Mr. Kordić withdrew the amended grounds of appeal 3 (D), (E) and (G) and on 6 May 2004 withdrew ground 3 (F).

238. On 10 March 2003, Mr. Kordić filed a notice of alleged rule 68 violations by the prosecution, supplemented by a further motion filed on 14 March 2003. On 11 February 2004, the Appeals Chamber permitted Mr. Kordić to augment his appeal brief addressing these alleged violations. This supplemental brief on alleged rule 68 violations was filed on 23 February 2004. The prosecution filed motions to strike portions of the supplemental brief on 24 February and 1 March 2004. The decision on both prosecution motions was issued on 30 March 2004. On 11 May 2004, the Appeals Chamber filed its decision on the prosecution motion to strike out portions of Mr. Kordić's reply filed on 13 April 2004.

239. On 16 April 2004, the Appeals Chamber rejected Mr. Čerkez's motion for admission of a witness transcript pursuant to rule 115 of the Rules. On 19 April 2004, the Appeals Chamber dismissed Mr. Kordić's motion for provisional release on compassionate grounds. On 4 May 2004, Mr. Čerkez submitted facts regarding matters of sentencing. An affidavit attesting to the family circumstances of Mr. Kordić was filed on 13 May 2004. The hearings on the appeal were held on 17, 18 and 19 May 2004 and the Appeals Chamber is currently deliberating.

(7) Krnojelac case

240. The Trial Chamber judgement was rendered on 15 March 2002 by Trial Chamber II. Milorad Krnojelac and the prosecution filed notices of appeal on 5 April and 12 April 2002, respectively. On 18 March 2003, Judge Güney was designated pre-appeal Judge. On 30 March 2003, the Appeals Chamber received a notice from Krnojelac waiving his right to submit a motion for admission of additional evidence pursuant to rule 115 of the Rules. The Appeals Chamber (Judges Jorda, presiding, Shahabuddeen, Güney, Schomburg and Agius (by designation)) heard oral arguments on 14 and 15 May 2003.

241. On 17 September 2003, the Appeals Chamber rendered its judgement. The Appeals Chamber allowed the prosecution's first ground of appeal and set aside Mr. Krnojelac's convictions as an aider and abettor to persecution and cruel treatment. The Appeals Chamber also allowed the prosecution's third to sixth grounds of appeal, reversed Mr. Krnojelac's acquittals on counts 1, 2, 4, 8 and 10 of the indictment, and revised his conviction under count 1 of the indictment so as to encompass a number of beatings. Furthermore, the Appeals Chamber allowed the prosecution's seventh ground of appeal and reversed Mr. Krnojelac's acquittal on count 1 of the indictment (persecution as a crime against humanity) relating to the deportation and expulsion of non-Serb detainees. All grounds of Mr. Krnojelac's appeal were dismissed. The Appeals Chamber found Mr. Krnojelac guilty as a co-perpetrator of persecution as a crime against humanity, and of cruel treatment as a violation of the laws or customs of war. He was also found to be guilty of torture as both a crime against humanity and a violation of the laws or customs of war, and of murder as both a crime against humanity and a violation of the laws or customs of war. He was further found to be a co-perpetrator of the crime against humanity of persecution (forced labour, deportation and expulsion). All convictions under count 5 of the indictment (inhumane acts as a crime against humanity) and count 7 (cruel treatment as a war crime) were set aside. The Appeals Chamber dismissed the sentencing appeals by both Mr. Krnojelac and the prosecution, and sentenced him to 15 years' imprisonment.

(8) Krstić case

242. On 14 August 2001, Radislav Krstić filed a notice of appeal from the Trial Chamber judgement of 2 August 2001. On 16 August 2001, the prosecution filed its notice of appeal. The filing of appeal briefs was completed on 6 March 2002. Mr. Krstić filed two applications for the admission of additional evidence pursuant to rule 115 of the Rules on 10 January 2003 and 7 August 2003. The Appeals Chamber (Judges Meron (presiding), Pocar, Shahabuddeen, Güney and Schomburg) issued its decision on the first additional evidence motion on 5 August 2003 and on the second additional evidence motion on 15 September 2003, with reasons to follow. On 19 November 2003, the Appeals Chamber dismissed the prosecution's

motion of 11 November 2003 to adduce additional evidence. On 20 November 2003, the Appeals Chamber granted a supplementary motion to adduce additional evidence filed by Mr. Krstić on 4 November 2003. The Appeals Chamber conducted evidentiary hearings and heard oral arguments on the appeal on 21, 26 and 27 November 2003. The reasons for the decisions on the three additional evidence motions filed by Mr. Krstić were issued on 6 April 2004.

243. On 19 April 2004, the Appeals Chamber rendered its judgement in Mr. Krstić's appeal. The Appeals Chamber, inter alia, set aside, Judge Shahabuddeen dissenting, Mr. Krstić's conviction as a participant in a joint criminal enterprise to commit genocide and found, Judge Shahabuddeen dissenting, the appellant guilty of aiding and abetting genocide. The Appeals Chamber also set aside, Judge Shahabuddeen dissenting, Mr. Krstić's conviction as a participant in murder under article 3 of the Statute, committed between 13 and 19 July 1995, and found, Judge Shahabuddeen dissenting, Mr. Krstić guilty of aiding and abetting murder as a violation of the laws or customs of war. However, Mr. Krstić's conviction was confirmed for his participation in murder committed between 10 and 13 July 1995 as a violation of the laws or customs of war and as persecution. Further, the Appeals Chamber held that the Trial Chamber had incorrectly disallowed Mr. Krstić's convictions as a participant in extermination and persecution (on the ground that they were cumulative with Mr. Krstić's conviction for genocide), but that Mr. Krstić's level of responsibility was that of an aider and abettor in extermination and persecution as crimes against humanity. The appeals by both Mr. Krstić and the prosecution were otherwise dismissed. The Appeals Chamber unanimously sentenced him to 35 years' imprisonment. Judge Shahabuddeen appended a partial dissenting opinion.

(9) Kvočka, Radić (Mlađo), Prcać and Žigić case

244. Following the delivery of the Trial Chamber judgement on 2 November 2001, Miroslav Kvočka, Mlađo Radić, Dragoljub Prcać, Zoran Žigić and Milojica Kos filed their notices of appeal on 13 (Kvočka), 15 (Radić and Prcać) and 16 (Žigić and Kos) November 2001, respectively. The appellant Kos filed his appeal brief on 2 April 2002, but withdrew his appeal on 14 May 2002. He was subsequently released on 30 July 2002 by an order of the President.

245. The filing of the appeal briefs, responses and replies by the remaining defendants and the prosecution was completed on 13 November 2002. Žigić filed two motions for the admission of additional evidence pursuant to rule 115 of the Rules, the first on 22 August 2002 with an addendum filed on 13 June 2003, and the second on 11 April 2003, with a supplement filed on 19 May 2003. Messrs. Prcać and Radić both filed motions for additional evidence on 25 February 2003, with Mr. Radić filing an addendum on 7 March 2003 and Mr. Prcać filing an addendum on 10 March 2003. On 16 February 2004, the Appeals Chamber (Judges Shahabuddeen, presiding, Pocar, Güney, Schomburg and Weinberg de Roca) dismissed the motions for additional evidence presented by Mr. Radić and Mr. Prcać, and the first motion of Mr. Žigić. In the decision, the Appeals Chamber found two pieces of additional evidence presented by Mr. Žigić admissible as additional evidence on appeal and dismissed the second motion by Mr. Žigić in all other respects.

246. On 29 July 2002, Mr. Žigić sought a suspension of proceedings in his appeal, as he had been informed by the Registry that his legal aid had been withdrawn by

the Registrar on the basis that he could no longer be considered indigent. The Appeals Chamber, having heard from both Mr. Žigić and the Registrar, rendered a decision on 7 February 2003, affirming the decision of the Registrar. On 13 March 2003, Mr. Žigić was provided with legal representation on a limited basis for the remainder of his appeal. On 10 December 2003, the Registrar reviewed the financial status of Mr. Žigić and confirmed the withdrawal of legal aid for the remainder of the appeal phase. Mr. Žigić requested the Appeals Chamber, by motion dated 9 January 2004, to review the decision of the Registrar of 10 December 2003. On 10 March 2004, the Appeals Chamber quashed the Registrar's decision and remitted the matter to him for reconsideration. This matter is being considered by the Registrar and meanwhile, the decision of 7 February 2003 stands confirming the withdrawal of legal aid.

247. On 17 December 2003, the Appeals Chamber granted Mr. Kvočka provisional release pending the hearing of his appeal.

248. On 16 February 2004, two witnesses were called by the Appeals Chamber to appear as additional witnesses on appeal. On 18 February 2004, Judge Schomburg was replaced on the bench by Judge Mumba. The Appeals Chamber (Judges Shahabuddeen, presiding, Pocar, Mumba, Güney and Weinberg de Roca) heard oral arguments from 23 to 26 March 2004. The first additional witness testified during the appeal hearing on 23 March 2004 and the Appeals Chamber was to hear the second witness, as well as two rebuttal witnesses during an additional evidentiary hearing on 19, 20 and 21 July 2004 through videoconference link. The Appeals Chamber is currently deliberating.

(10) Naletilić and Martinović case

249. On 29 April 2003, Mladen Naletilić and Vinko Martinović filed notices of appeal from the Trial Chamber judgement of 31 March 2003. On 2 May 2003, the prosecution filed its notice of appeal. The Appeals Chamber composition (Judges Pocar, presiding, Jorda, Shahabuddeen, Hunt and Güney) was changed on 6 August 2003, with Judges Schomburg and Weinberg de Roca replacing Judges Jorda and Hunt. The prosecution filed its Appeal Brief on 14 July 2003. Mr. Martinović filed his Appeal Brief on 29 August 2003. Mr. Naletilić filed his Appeal Brief on 15 September 2003, and re-filed it on 10 October 2003 following a decision of 3 October 2003 by the pre-appeal judge in response to a prosecution motion regarding defects in the Appeal Brief. The respective response and reply briefs have all been filed.

250. On 31 July 2003, Mr. Martinović filed a motion for the admission of additional evidence pursuant to rule 115 of the Rules. Mr. Naletilić filed a motion for the admission of additional evidence on 15 August 2003, which was re-filed on 8 September 2003, pursuant to the 29 August 2003 order of the pre-appeal judge. On 15 March 2004, Mr. Martinović filed confidentially his second motion for the admission of additional evidence. The Appeals Chamber is currently considering the motions.

(11) Nikolić (Dragan) case

251. On 16 January 2004, Dragan Nikolić filed a notice of appeal from the Trial Chamber sentencing judgement of 18 December 2003. The Appeals Chamber comprises Judges Meron (presiding), Pocar, Shahabuddeen, Güney and Weinberg de

Roca with Judge Güney designated as the pre-appeal judge. On 25 March 2004, an extension of time was granted to the appellant to file his Appeal Brief not later than 30 days after the Trial Chamber judgement had been translated into a language he understands (Bosnian/Croatian/Serbian). The appellant filed his appeal brief on 30 June 2004. The Appeals Chamber is currently awaiting the filing of the response brief and brief in reply.

(12) Nikolić (Momir) case

252. On 30 December 2003, Momir Nikolić filed a notice of appeal from the Trial Chamber sentencing judgement of 2 December 2003. The Appeals Chamber comprises Judges Meron (presiding), Pocar, Shahabuddeen, Güney and Weinberg de Roca with Judge Güney designated as the pre-appeal judge. On 22 January 2004, an extension of time was granted to the appellant to file his Appeal Brief not later than 40 days after the Trial Chamber judgement had been translated into a language he understands (Bosnian/Croatian/Serbian). On 24 May 2004, the appellant filed his Appeal Brief. On 8 June 2004, the prosecution filed a motion to strike out parts of the Appeal Brief. On 18 June 2004, the appellant filed a motion for the admission of additional evidence pursuant to rule 115 of the Rules. The Appeals Chamber is currently considering the motions and awaiting the filing of the response brief and brief in reply.

(13) Simić (Blagoje) case

253. On 17 November 2003, Blagoje Simić filed a notice of appeal from the Trial Chamber judgement of 17 October 2003. The Appeals Chamber comprises Judges Güney (presiding), Pocar, Shahabuddeen, Schomburg and Weinberg de Roca, with Judge Güney as the pre-appeal judge. On 13 January 2004, the appellant filed a motion for an extension of time to file his Appeal Brief. The pre-appeal judge granted the motion and allowed the Appeal Brief to be filed within 30 days from the filing of the trial judgement in a language he understands, (Bosnian/Croatian/Serbian). On 17 June 2004, the appellant filed his Appeal Brief. On 25 June 2004, the appellant filed a motion for disclosure of documents. The Appeals Chamber is currently considering the motion and awaiting the filing of the respondent brief and brief in reply.

(14) Stakić case

254. On 1 September 2003, both the prosecution and Milomir Stakić filed notices of appeal from the Trial Chamber judgement of 31 July 2003. The Appeals Chamber comprises Judges Meron, presiding, Pocar, Shahabuddeen, Güney and Weinberg de Roca, with Judge Meron being the pre-appeal judge. The prosecution filed its Appeal Brief on 17 November 2003, Mr. Stakić filed his Appeal Brief on 3 February 2004, and re-filed it on 9 March 2004. On 3 February 2004, Mr. Stakić also filed a motion for the admission of additional evidence pursuant to rule 115 of the Rules. On 8 June 2004, the prosecution filed a motion to strike an alleged new ground of appeal of the defendant raised in the Reply Brief and the motion was granted by the Appeals Chamber on 20 July 2004. The Appeals Chamber is currently considering the motions.

(15) Vasiljević case

255. On 30 December 2002, Mr. Vasiljević filed his notice of appeal from the Trial Chamber judgement of 29 November 2002. The Appeals Chamber ordered the re-filing of the notice of appeal following a motion by the prosecution alleging defects therein. A new notice of appeal was filed on 12 February 2003. On 28 January 2003, Judge Shahabuddeen was assigned pre-appeal judge. On 26 September 2003, the composition of the Appeals Chamber was changed to Judges Meron, presiding, Shahabuddeen, Güney, Schomburg and Weinberg de Roca.

256. On 24 June 2003, Mr. Vasiljević filed a motion for the admission of additional evidence pursuant to rule 115 of the Rules. The Appeals Chamber issued its decision on 21 October 2003, finding that the proposed additional evidence was inadmissible and dismissed Mr. Vasiljević's motion.

257. On 18 November 2003, the Appeals Chamber heard oral arguments on the appeal. On 25 February 2004, the Appeals Chamber rendered its judgement. The Appeals Chamber found by majority, Judge Shahabuddeen dissenting, that Mr. Vasiljević was responsible as an aider and abettor with respect to murder as a violation of the laws or customs of war under article 3 of the Statute (count 5) and persecution pursuant to article 5 (h) of the Statute (count 3), instead of responsible as a co-perpetrator as found by the Trial Chamber. The appeal of Mr. Vasiljević was otherwise dismissed. The Appeals Chamber, by majority, Judge Shahabuddeen dissenting, revised the appellant's sentence to 15 years' imprisonment.

(c) Requests for review

258. Review proceedings before the Tribunal are regulated by article 26 of the Statute and rules 119 to 122 of the Rules of Procedure and Evidence. When a new fact has been discovered which was not known to the moving party at the time of the proceedings before a Trial Chamber or the Appeals Chamber, and which could not have been discovered through the exercise of due diligence, the defence or, within one year after the final judgement has been pronounced, the prosecution, may make a motion to the relevant Chamber for review of the judgement. If, at the time of the request for review, any of the judges who constituted the original Chamber are no longer judges of the Tribunal, the President shall appoint a judge or judges in their place.

259. A request for review was filed confidentially during the reporting period. In a confidential decision, the Appeals Chamber dismissed the request.

IV. Activity of the Office of the Prosecutor

A. Overview

260. The Prosecutor's prosecution policy continues to be directed at the highest-level political and military leaders responsible for having committed the gravest crimes, leaving middle and lower-ranking criminals to be tried by national courts. Throughout the reporting period, the Office of the Prosecutor implemented the completion strategy that it defined in 2002 and that was approved by the Security Council in resolution 1503 (2003) of 28 August 2003. In particular, over this period, efforts concentrated on achieving the first major deadline foreseen by this strategy,

namely the completion of the investigation of the remaining unindicted, high-level targets by the end of 2004. The Prosecutor continued to review regularly all ongoing and pending investigations with a view to ensuring that all resources were adequately targeting the highest-level suspects. Additionally, the Office also continued its pre-trial, trial and appeals activities, and developed measures to enhance its operations, such as streamlining its procedure, and consolidating its use of electronic systems.

261. Particular efforts were also made to obtain the cooperation of countries upon which the Tribunal relies to carry out its mandate, as well as to assist on the reform of the judicial systems of the countries of the region of the former Yugoslavia. These two factors form key parts of the completion strategy of the Tribunal's mandate.

B. Activity of the Prosecutor

1. Investigations

(a) General considerations

262. As mentioned above, in furtherance of the Prosecutor's commitment to complete the investigation of the remaining unindicted high-level targets, investigations have been streamlined and made more focused than in the previous years. Following the prior periodic reviews of all investigations, in January 2004, the Prosecutor and her senior staff reviewed the strength of the evidence concerning all targets falling within the definition of senior leaders or commanders suspected of being most responsible for crimes within the Tribunal's jurisdiction. This review resulted in a reduction in the number of investigations that would have lead to new indictments. As a result of the January 2004 review process, it was decided that the investigations concerning seven targets would be suspended, not indicted before the Tribunal, and eventually referred to domestic local prosecutors in the former Yugoslavia. Furthermore, investigations concerning two other high-level suspects were suspended after their death. As a consequence, the Office of the Prosecutor continues to conduct six remaining investigations involving a maximum of 11 suspects. On this basis, a maximum of six new indictments could be submitted to the judges for confirmation before the end of 2004, which could result in a maximum of four trials, given the possibility of joining some of the indictments.

(b) Indictments

263. As a result of the investigative work, during the reporting period, six indictments, involving 15 accused, were confirmed and were either made public at the time of confirmation or were subsequently made public, with the exception of one indictment remaining under seal. An important witness in the Milošević case mentioned in the latter's indictment, Milan Babić, was accused (indictment confirmed on 17 November 2003) and pleaded guilty to crimes against humanity and to violations of the laws or customs of war. An indictment against four senior Serbian military and police generals, responsible for the crimes committed by the Serbian security forces in Kosovo in 1998-1999 was confirmed during the reporting period (on 2 October 2003). Two senior Croatian generals were indicted (indictment confirmed on 24 February 2004) for the crimes committed during and in the

aftermath of the so-called "Operation Storm". It was followed by an indictment of six most senior leaders of the so-called Croatian Community of Herceg-Bosna (indictment confirmed on 4 March 2004) for crimes against humanity, grave breaches of the Geneva Conventions and violations of the laws or customs of war.

264. One indictment, confirmed on 4 June 2004, involving a senior figure, remains confidential and under seal pending the apprehension of the accused.

265. Finally, an indictment was confirmed (on 20 May 2004) against Mirko Norac for crimes alleged to have been committed in the Medak pocket. The Prosecutor's intention is to apply for the joinder of this case with that of Rahim Ademi.

266. Nine of these accused are in the custody of the Tribunal (one of them is awaiting sentencing and transfer to a prison in a third country); one is in custody in Croatia owing to local charges pending against him; and four remain fugitives in Serbia.

267. Additionally, one indictment for contempt of the Tribunal, issued against a journalist, Duško Jovanović, pursuant to rule 77, was subsequently withdrawn. (The journalist was subsequently assassinated in his home town of Podgorica.)

2. Arrest and surrender of the accused

268. During the reporting period, nine accused surrendered voluntarily and one was arrested. Vladimir Kovacević was arrested in Serbia on 25 September 2003 and handed over to the Tribunal on 23 October 2003. Those who surrendered are: Mitar Rašević, who surrendered on 10 August 2003 in Serbia; Ivan Ćermak and Mladen Markać, who surrendered on 11 March 2004 in Croatia; Valentin Ćorić, Milivoj Petković, Slobodan Praljak, Jadranko Prlić, Berislav Pušić and Bruno Stojić, who all surrendered on 5 April 2004 in Croatia.

269. The failure to arrest high-level accused, such as Radovan Karadzić, Ratko Mladić and Ante Gotovina, continues to be a major concern for the Prosecutor. Repeated appeals to Governments and entities in the region to pursue and arrest them have so far not borne results.

3. Pre-trial procedure, trials and appeals

270. The core activities of the Office of the Prosecutor throughout the reporting period were pre-trial, trial and appellate work.

271. The prosecution was involved in the pre-trial phase of the following 17 cases: Ademi; Halilović; Mejakić/Fuštar/Knežević/Gruban; Ljubičić; Pavković et al.; Martić; Mrkšić/Radić/Šljivančanin; Stanković; Limaj/Bala/Musliu; Šešelj; Orić; Simatović/Stanišić; Rajić; Rašević; Čermak/Markač; Obrenović et al.; and Prlić et al.

272. The prosecution conducted six trials in the Brđanin, Milošević, Blagojević et al., Hadžihasanović/Kubura, Strugar, and Krajišnik cases, involving a total of eight accused. The leading of evidence has been completed in the Brđanin case, and the Office of the Prosecutor is expecting the Trial Chamber to render the judgement and to start another trial later in the year. Additionally, the trend of guilty pleas initiated in 2002 continued over the reporting period, as five accused (Jokić, Nikolić, Deronjić, Češić and Babić) pleaded guilty to the charges against them. Guilty pleas not only confirm the commission of crimes and demonstrate acceptance of responsibility on the part of the accused, but they also save valuable court time

because the plea obviates the need for a trial. Furthermore, in most instances, appeals do not result from the guilty plea process, thereby saving more court time.

273. The Office of the Prosecutor was also involved in 10 post-judgement appeals: Blaskić; Kordić/Čerkez; Kvocka et al.; Tuta/Stela; Stakić; Galić; Bosanski Šamać; Dragan Nikolić; Momir Nikolić; and Jokić.

274. Detailed accounts of all cases appear in the Chambers section of the present report.

4. Cooperation

(a) Arrests

275. Within the context of the Tribunal completion strategy and especially the commitment of the Office of the Prosecutor to finalize all remaining investigations by the end of 2004, the issue of full cooperation of relevant United Nations Member States, particularly those of the former Yugoslavia, is of utmost importance. The Prosecutor, as in all previous years, spent considerable time and effort urging and encouraging Governments to fulfil their obligations, locate the fugitives and respond to all pending requests for assistance and information. As a matter of priority the Prosecutor demanded the arrests and transfers of indictees. In that regard, she continued to consult regularly with Governments and international institutions inside and outside the former Yugoslavia. Unfortunately, overall there has been no major progress in that respect, except for Croatia. Serbia and Montenegro has failed to act upon outstanding Tribunal arrest warrants. In 2003, the Republika Srpska in Bosnia and Herzegovina again failed completely to locate and arrest fugitives. The Republic of Croatia, after the change of the Government in December 2003, acted immediately in regard to two new indictments and facilitated surrender of all accused, while still undertaking measures to locate accused Gotovina.

(b) Republic of Croatia

276. Cooperation on the part of the Croatian authorities has improved considerably. In April 2004, the Prosecutor was in a position to make an overall positive assessment of Croatia's cooperation with the Office of the Prosecutor at the request of the Commission of the European Union. The Government now responds to requests for assistance and information regarding documents and witnesses/suspects in a swift and professional manner. In March and April, the Croatian authorities handled the two new indictments against very senior accused in an efficient manner. The only remaining issue is the Gotovina case. The Prosecutor is disappointed that it was not possible for Croatia to ensure the transfer of this accused since he was indicted in 2001. However, since the new Government was installed in January 2004, the Office of the Prosecutor has developed close cooperation to locate this fugitive with the Croatian authorities, especially with the Office of the State Attorney. The Prosecutor is satisfied with the efforts of the Government of Croatia at this stage. However, the Croatian authorities are expected to continue to do their utmost until Gotovina is in The Hague.

(c) Serbia and Montenegro (former Federal Republic of Yugoslavia)

277. Cooperation by Serbia and Montenegro continued to be complex, partial and variable until the end of 2003. Cooperation usually was politicized by the

authorities. From the beginning of 2004 Serbia and Montenegro practically suspended any cooperation with the Tribunal. Except for some selected waivers granted in April-May 2004 in the context of investigation against leaders of the Kosovo Liberation Army, no progress was made. Over 100 requests for documents and 50 requests for such waivers are outstanding (as of the beginning of June 2004). Furthermore, the relevant authorities of Serbia and Montenegro were not prepared to execute any of the arrest warrants transmitted to them by the Tribunal, even when clear information on the whereabouts of the accused was also submitted to them. Three of the four accused indicted in October 2003 are openly engaged in the political life of Serbia, some calling for a referendum to decide whether they needed to surrender or not. Serbia and Montenegro was therefore in breach of its international legal obligations under Chapter VII of the Charter. As a consequence, the Prosecutor requested the President to notify the Security Council, in accordance with rule 7 bis and rule 59 of the Tribunal's Rules of Procedure and Evidence. Accordingly, on 4 May 2004, the President reported Serbia and Montenegro to the Security Council.

278. The overall assessment is that cooperation with the Tribunal is hostage to political developments in Serbia and Montenegro. The authorities so far have done nothing more than say that cooperation with the Tribunal is an international obligation which has to be "a two-way street", thus negating the provisions of the Statute of the Tribunal in regard to primacy. The Office of the Prosecutor believes that up to 15 accused, including Mr. Mladić, are residing in or travelling through Serbia and Montenegro.

279. The large number of outstanding requests relating to the most compelling and relevant evidence — documentary or witness statements — remains unacceptable and is seriously slowing down important investigations and prosecutions. It remains a serious concern for the Prosecutor that, even after 10 years of the Tribunal's existence and all the changes that have occurred in Serbia and Montenegro and in the region, the authorities of this country still put into question or limit the Prosecutor's right to have full, unimpeded access to relevant evidence.

(d) Bosnia and Herzegovina — Federation of Bosnia and Herzegovina and the Republika Srpska

280. Cooperation of the Federation of Bosnia and Herzegovina remains satisfactory, while cooperation of the Republika Srpska remains insufficient, notably in regard to the fugitives and access to war time documentation. There has been no serious effort by the authorities of the Republika Srpska to locate and arrest fugitives, including Karadžic, throughout the period covered by the present report. Recently, under pressure from the Office of the High Representative, the Republika Srpska police conducted a couple of operations aiming at arresting lower level accused, which failed to produce positive results. Not a single fugitive was arrested in the Republika Srpska. Newly found verbal resolve to act and positive statements of the authorities (President of the Republika Srpska and members of the Government) are welcome, but until positive results are achieved the Republika Srpska authorities will remain in non-compliance.

281. While in most cases, the Office of the Prosecutor investigators and prosecutors are being granted access to high-level witnesses in the Republika Srpska, notably former military and police personnel, the issue of missing documentation (archives

of the President of the Republika Srpska, Supreme Command and General Staff) is still not resolved. It appears that some documentation may have been hidden from the Tribunal and now reappears in parts, due to the pressure of the Office of the High Representative related to the findings of the Republika Srpska Srebrenica Commission.

(e) The former Yugoslav Republic of Macedonia

282. Since the decision of the Prosecutor to apply the Tribunal's primacy regarding the investigation of allegations of war crimes committed between the Macedonian security forces and organized Albanian rebel groups during 2001, two investigations have been opened involving perpetrators on both sides of the conflict. After a deferral hearing was held before a Tribunal Trial Chamber on 25 September 2003 to resolve the issue of primacy, national authorities, including judicial authorities, continued to cooperate with the Office of the Prosecutor in good faith after the change of the Government. They continued to fully respect the primacy of the Tribunal in the five cases for which the local proceedings have been terminated. The authorities of the former Yugoslav Republic of Macedonia are cooperating with the Office of the Prosecutor in respect to the ongoing investigations.

(f) Assistance in the territory of the former Yugoslavia and beyond

283. Day-to-day relationships with international organizations throughout the territory of the former Yugoslavia remain essential to the success of the Prosecutor's mandate. SFOR continues to provide valuable support to the Office of the Prosecutor in connection with investigation and assists in the execution of search warrants. SFOR maintains the capacity to apprehend indictees, though the last operation to arrest a fugitive was conducted in July 2002. The International Security Force in Kosovo (KFOR) has also given valuable support and assistance to the Prosecutor and remained ready to take necessary actions in regard to possible indictments. The Prosecutor continued to enjoy close cooperation with and support from other organizations in the region, in particular the Office of the High Representative in Bosnia and Herzegovina, the United Nations Interim Administration Mission in Kosovo (UNMIK), and the missions of the Organization for Security and Cooperation in Europe (OSCE) in Belgrade, Sarajevo and Zagreb; NATO and the European Union (EU) mission in the former Yugoslav Republic of Macedonia.

284. During the past year, permanent assistance and influence provided by States members of EU and the EU Commission in the region proved to be of great value for the Office of the Prosecutor, as all the States of the former Yugoslavia have aspirations for joining EU and must comply with the relevant conditions.

5. Other activities

(a) Universal Information System

285. Further substantial progress has been made in implementing the Universal Information System. The System is a suite of integrated software applications, re-engineered business processes and data repositories used by the Office of the Prosecutor to preserve and organize investigation and prosecution knowledge as accessible and useable shared information. The System encompasses document

management, witness management, case preparation, electronic disclosure, case knowledge management and trial presentation. The period covered by the present report included the final stages of research and development of some systems and the implementation of others. The next period will include the final integration of the individual systems into the knowledge management and business practices of the Office of the Prosecutor and the reaping of the efficiency and information gains of the project. The specific milestones accomplished during the period covered by the report include the implementation of the Electronic Disclosure System to host disclosure materials to the defence via the Internet, the development of standardized disclosure workflow for all trial teams and conglomeration of all disclosure records into a central record-keeping database, the refinement of digital, multimedia, trial presentation (sanction) in the courtrooms, and the full implementation of the witness management system.

(b) Rules of the road project

286. In Rome, on 18 February 1996, the parties to the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement) agreed that "persons other than those already indicted by the International Tribunal may be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant or indictment that has been reviewed and deemed consistent with international legal standards by the International Tribunal". The Prosecutor agreed to assist the parties in reviewing national prosecution files. Therefore, on the basis of this agreement, no person could be arrested pursuant to a warrant or indictment without the prior expert review of the Tribunal. The agreement constituted the framework for the rules of the road project, established and managed by the Office of the Prosecutor, and funded since 1997 by voluntary contributions.

287. During the period covered by the present report, the rules of the road unit reviewed the prosecution cases against 456 suspects in 80 files submitted by the various local prosecuting authorities throughout Bosnia and Herzegovina. These figures are less than for the year 2002 because, for most of 2003, only one lawyer was employed in the unit. Funding has presented a continuing problem for the unit and it has prevented the employment of additional staff.

288. At this stage of the rules of the road unit's development and in the framework of the Tribunal's completion strategy, the Prosecutor considers that the prosecutorial review function currently carried out by the unit should be transferred to the State Prosecutor of Bosnia and Herzegovina, as soon as there is a demonstrable capacity to assume this function in respect of the whole of Bosnia and Herzegovina. It is hoped that the capacity will be developed by the end of 2004 There are approximately 350 rules of the road files still to be reviewed, relating to approximately 1,500 alleged suspects, and additional files are still being received. If sufficient funding can be obtained, the staff from the rules of the road unit could assist in the establishment of a prosecutorial review division within the State Court of Bosnia and Herzegovina in the next six months, in order to transfer their specialized knowledge of rules of the road files and suspects to the State Court.

289. During 2003, the rules of the road unit embarked on a major overhaul of its database, in order to ensure the completeness and accuracy of its data. This is important because it is anticipated that the unit's database will form the State

Prosecutor's database for all future war crimes' prosecutions in Bosnia and Herzegovina. Permission was given to prosecute more than 750 rules of the road suspects (standard marking "A"), of whom approximately 150 have been, or are currently being, prosecuted by the Bosnia and Herzegovina's national courts. A further approximately 1,500 rules of the road suspects have been given a "C" standard marking, which means that they could also be prosecuted, given further investigation.

290. Unfortunately, funding for the rules of the road unit has been consistently difficult to obtain. The unit was funded only to July 2004 and it was again faced with the prospect of closure. It is hoped that donor countries will urgently make funding available to enable the unit to engage in an orderly transition process. This is an immensely valuable project for the future of war crimes' prosecutions in Bosnia and Herzegovina.

(c) Training and assistance in the development of domestic jurisdictions

291. The transfer of cases to domestic jurisdictions forms part of the completion strategy of the Tribunal. Cases could be transferred to the domestic jurisdictions as early as the beginning of 2005, provided serious efforts continue to be made for the creation of effective jurisdictions in the countries of the former Yugoslavia, capable of handling war crimes cases in accordance with international standards. Throughout the reporting period, the Office of the Prosecutor was active throughout the region supporting capacity-building and training of the personnel of domestic courts. In Bosnia and Herzegovina, the Office participated in working groups aimed at establishing a war crimes chamber within the State Court, and preparing the ground for a smooth transfer of cases to the domestic courts, together with the Office of the High Representative. Efforts were made to anticipate and remove any obstacles to the use of ICTY indictments and evidence in the respective national systems. The Office has also participated in the establishment of adequate legislative and institutional frameworks in the Region, and has worked with other international and regional organizations, to ensure that the proceedings before domestic institutions can be completed in a professional way and can be internationally monitored. The Office has also provided the relevant authorities in Croatia, in Serbia and Montenegro, and in Bosnia and Herzegovina, with suggestions on the admissibility of ICTY evidence and, more generally, with suggestions for reform of their laws and criminal procedure codes.

V. Activity of the Registry

A. Office of the Registrar

292. During the review period, the Registry was managed by Registrar Hans Holthuis.

1. Registry Advisory Section

293. The Registry Advisory Section assisted the Registrar, as well as the Deputy Registrar and Chief of Administration, with legal advice, the formulation of policies and the preparation of managerial decisions. With a view to the high priority of the proper development and implementation of the completion strategy, the Section also participated in numerous working groups regarding the establishment of the Special

War Crimes Chamber at the State Court of Bosnia and Herzegovina, in close cooperation with the Office of the High Representative.

294. The Section continues to perform its advisory functions, including the interpretation and application of legal instruments regarding status, privileges and immunities of the Tribunal, international agreements with the host country, other States and intergovernmental organizations, administrative legal issues, claims against the organization, contracts and commercial arrangements, the negotiation of enforcement and relocation agreements and advice on the status and development of the legal framework and rules of the Tribunal. The Section also provides advice on judicial cooperation with other international tribunals, advice on management strategic questions, and advice, including active participation in working groups, assisting the President and the Office of the High Representative for Bosnia and Herzegovina in the planning of the special war crimes chamber of the State Court as part of the referral process of the Tribunal's completion strategy.

295. In addition, the relevant reporting period has seen active developments in the coordination of the implementation of the inter-Tribunal (ICTY-ICTR) cooperation project which is funded by a European Commission grant. This cooperation project initially involved ICTY and ICTR in an initiative to establish a framework for increased inter-tribunal cooperation with a view to draw upon each other's experiences in a mutual exchange of expertise and practical experiences thus providing a more coherent and consistent knowledge base that can be shared with other international judicial institutions such as the Special Court for Sierra Leone. In September 2003, the European Commission formally approved the extension of the grant to include cooperation initiatives between ICTY/ICTR and the Special Court for Sierra Leone.

296. In the light of the Tribunal's completion strategy, the Section drafted a policy paper outlining the general framework and practical implications of the completion strategy for information within the Registry sections. The Section participated in an advisory group organized by the International Bar Association upon an OSCE request and an agreement of the Serbian Ministry of Justice, to review a draft law on organization and jurisdiction of government authorities in prosecuting persons guilty of war crimes. It also commented on the application of the new Criminal Code of Bosnia and Herzegovina in the light of the referral process.

297. The Tribunal continued its discussions with the host country regarding the application and interpretation of its headquarters agreement, specifically in relation to the privileges and immunities of judges and staff members. A new aspect in these discussions related to the operational requirements of the organization as a result of the completion strategy. The informal interorganizational working group comprising legal advisers of the other international organizations, including, inter alia, the International Court of Justice, the Organization for the Prohibition of Chemical Weapons and Eurojust continued its regular consultations.

298. The Section continued negotiations with individual States in order to conclude enforcement of sentences and relocation of witnesses' agreements. In line with Security Council resolution 1534 (2004) of 26 March 2004, wherein the Council encouraged States to conclude agreements for the enforcement of sentences of persons convicted by ICTY and invited the Tribunal to continue and intensify its efforts to obtain further cooperation of States in this regard, the Registrar, in consultation with the President and the Prosecutor, launched an initiative to

convince more States to accept convicted persons to serve sentences in their respective territories. In a letter dated 22 April 2004 to Ambassadors of States Members of the United Nations based in the Netherlands, the Registrar highlighted the urgency and the dimension of the requirement for additional slots for the enforcement of its sentences in a way that would allow long-term planning in light of the overall number of convictions to be expected. Following his letter, the Registrar started meeting with Ambassadors individually to brief them on the initiative regarding the enforcement of the Tribunal's sentences and to seek their Government's support in this area.

299. On 11 March 2004, the Tribunal signed, on behalf of the United Nations, an agreement on the enforcement of sentences with the United Kingdom. The United Kingdom became the tenth State Member of the United Nations to enter into such an agreement, after Italy (signed on 6 February 1997), Finland (7 May 1997), Norway (24 April 1998), Sweden (23 February 1999), Austria (23 July 1999), France (25 February 2000), Spain (28 March 2000), Denmark (4 June 2002) and Germany (signed two ad hoc agreements on 17 October 2000 with regard to Dušan Tadić and on 14 November 2002 with regard to Dragoljub Kunarac).

2. Public Information Services Section

300. Three noteworthy developments occurred during the reporting period: for the first time, the staffing table of the Public Information Services Section was reduced; however, the Section's traditional output remained unaffected, with the Chief of Section becoming responsible for a new internal information service; and important changes to the public information (both external and internal) structures commenced to be discussed.

301. It is the first time that the Section, whose staffing table had remained unchanged since 1998, reports a decrease in personnel. Early on in the reporting period, the position (and the incumbent of it, at the P-2 grade) of Publications Officer was transferred from the Section to the Office of Legal Aid and Detention Matters. The staffing table of the Section read subsequently as follows: Chief of Section (1), Press Unit (1 P-3, 1 G-5 full time, 2 G-6 part-time at 50 per cent), Legal Unit (1 P-2 and 1 G-5), Internet Unit (1 G-5 and 1 G-4) and Publications and Documentation Unit (1 G-4 and 1 G-3).

302. However, the Section's core functions, aimed at developing an as high as possible public scrutiny for the Tribunal, remained unaffected, with the main indicators being those indicated below.

303. The Press Unit has continued systematically to foster a wide press coverage of the institutional and judicial activity of the Tribunal. The monthly number of "press contacts" has stabilized at an average of 5,000, in the form of press releases, weekly press briefings or periodic press conferences, informal and formal interviews with the Tribunal's authorized spokespersons, and interviews organized by the main representatives of the Tribunal (President, judges, Prosecutor, Registrar and their principal staff members).

304. The Legal Unit has successfully continued to produce documents on how cases are proceeding in the courtroom (weekly summary of the trials in progress; statistical and narrative fact sheets on the indictments and ongoing/upcoming trials; and a weekly bulletin listing the Chambers' oral and written rulings). Also, the Unit

has regularly published issues (in both of the Tribunal's working languages) of the *Judicial Supplement*, a monthly case-law review summarizing all the judgements and the most important decisions and orders rendered by the Chambers; launched in 1999, this publication reached its fiftieth issue in mid-2004, and efforts were at hand to boost its dissemination beyond the regular readership of approximately 1,100 (one third receiving the *Supplement* in hard-copy; two thirds accessing the electronic versions released onto the Tribunal's web site).

305. Updated on an ongoing basis and continuously enriched with new materials and navigation/search tools by the Internet Unit, the Tribunal's Internet site (www.un.org/icty) has continued to be a crucial medium of communication. For the first time ever, the site had more than 1 million hits per month on average (compared with 675,000 hits per month in the previous reporting period). This steady growth has been recorded on all components of this multilanguage site: English subsite, French subsite, and Bosnian/Croatian/Serbian and Albanian subsites maintained by the outreach programme.

306. Finally, the Publications and Documentation Unit also contributed to satisfying a sustained external interest in the Tribunal: requests for copies of official legal documents increased to more than 7,100 (more than 15 per cent); at the same time, the Unit accommodated a number of educational visits to the Tribunal by student groups and representatives of professional groups (lawyers in training, judges, military etc.) as high as in the previous reporting period with a monthly average of 18 groups numbering 450 visitors. In spite of the continuing uncertainty around the publication of the Tribunal's official judicial reports (the contract with Kluwer reached the end of its term and a new contractor — Brill — was identified; but no contract was in place as of June 2004), the two volumes covering legal materials pertaining to the year 1997 were published. At the end of the reporting period, the publications policy was to be re-evaluated.

307. The most dramatic development in the field of "public information" however took place internally, with the establishment, within the Tribunal, of a news service (*ICTY News*) available through the ICTY Intranet (Tribunet).

308. Designed as a wire-service focusing on all ICTY-related matters (proceedings, administrative and human resources, social activities), former-Yugoslavia related events, international justice news and United Nations-wide activities, *ICTY News* was launched in the wake of an internal communication audit which had shown clear needs on the part of staff members: more information on directions of the organization, on strategy and policy matters, on the "bigger context" in which the Tribunal operates, better knowledge of the scope of activities undertaken at the Tribunal itself, a stronger community feeling, etc.

309. With the Chief of Section being the Editor, and reporting to the Internal Communication Steering Committee chaired by the Registrar, *ICTY News* was launched in mid-2003 and has received since then a positive and supportive feedback from its readership.

310. Between July 2003 and June 2004, in excess of 1,500 news items were released, which is an average of a minimum of 7 stories. The goal to have a news item released every hour was reached, making *ICTY News* an "addictive" service, accompanying staff members during any workday at the Tribunal.

311. With regard to content, the released news items can be divided in four main categories: ICTY-related items (60 per cent), former Yugoslavia-related items (20 per cent), international justice-related items (10 per cent) and the United Nations at large and human rights issues-related items (10 per cent). This reflects a selection and hierarchy of news which are deemed useful (on a personal basis) and relevant (on a duties-related basis) to staff members, making *ICTY News* a contribution to the development of an enhanced corporate identity and sense of belonging.

312. Beyond its own merits, the establishment of *ICTY News* is also indicative of a wider determination at the Registry to re-assess existing structures and means available to the Registrar to discharge its responsibility as "channel of communications to and from the Tribunal". This re-assessment, both of the external communication policy and the internal communication policy, takes place against a complex background blending the multiple parameters of the completion strategy, the accuracy in the perception of the Tribunal's achievements to date and its short, medium and long-term objectives, the need for a continuously strong support on the part of the major stakeholders of the Tribunal (victims groups, local and international public opinion, diplomatic missions, Member States, etc) and the motivation and the retention of experienced staff members to complete the Tribunal's mandate.

313. In the view of refocusing the public relations (at large) policies and reshuffling the public relations machinery, with no discrimination between external and internal means, the Registrar has convened two working groups: the first one has been working on a renewed public relations platform and also commissioned an audit of the existing web site; the other one has been discussing a rearrangement of the existing structures. At the time of the filing of the present report, the working groups were about to make their recommendations.

3. Outreach programme

314. In keeping with recommendations in Security Council resolution 1503 (2003), the Tribunal, as part of its completion strategy, continued to develop and improve its outreach programme, with special attention paid to improving the capacity of national jurisdictions to prosecute war crimes cases.

315. The transfer of skills and materials to national jurisdictions complemented the programme's other principal activities of keeping the people in the States of the former Yugoslavia informed and promoting support for the Tribunal's work in order for the organization to successfully accomplish its mission.

316. The programme maintains offices in Sarajevo (Bosnia and Herzegovina), Zagreb (Croatia), Pristina (Kosovo) and Belgrade (Serbia and Montenegro) that act as the Tribunal's main points of contact with the public in the territories of the former Yugoslavia. Their activities are coordinated by a small outreach programme staff in The Hague.

317. The outreach programme strives to ensure that the Tribunal's activities are transparent, accessible and intelligible to different communities in the former Yugoslavia. Failure to provide basic information not only permits groups hostile to the Tribunal to project negative and inaccurate information about it but militates

against the Tribunal's achieving one of its key missions of contributing to the restoration and maintenance of peace in the region.

318. In the reporting period, the outreach programme significantly enhanced its activities to strengthen national jurisdictions in their handling of war crimes cases, assisting in the creation of a responsible body of lawyers, prosecutors and other legal professionals in the former Yugoslavia through a broad range of training, educative and consultative programmes in The Hague and in the region. For example, in Croatia the outreach programme is involved in an extensive programme of training seminars for judges and prosecutors who are likely to take part in the trial of war crimes cases. This series, arranged at the initiative of the Minister of Justice of Croatia, commenced in May 2004 and will continue to October 2004. Such initiatives are designed to share expertise and information with national authorities in order to help make their judicial system suitable for eventual referral of cases from the Tribunal. Elsewhere, the outreach programme is making considerable efforts to hasten the day when courts in Serbia and Montenegro will be able to conduct trials that meet the standards of international human rights and due process. In December 2003, the programme hosted a high-level delegation from the recently established Department of War Crimes at the Belgrade District Court in order to address the important issue of witness protection. Later, in May 2004, the programme hosted a week-long visit by all leading professionals within that court to facilitate the transfer of knowledge and expertise from the practice of the Tribunal, to strengthen channels of communication, and to make use of the legal and practical resources of the Tribunal in addressing potential problems in processing war crimes at the Special Court. Within Bosnia and Herzegovina, the programme has played an active role in supporting the establishment of the War Crimes Chamber of the State Court.

319. The programme further assists the implementation of the Tribunal's completion strategy by tracking developments and reforms in domestic criminal justice systems, especially war crimes cases conducted by national authorities in the region.

320. Another important element of the programme's work within the reporting period was its engagement of victims across the region, especially those whose communities were most affected by the crimes under the Tribunal's jurisdiction. In December 2003, the programme organized a landmark conference at Sarajevo bringing together victims' associations and legal professionals to discuss the impact of Tribunal judgements on specific communities. The conference highlighted the need for the Tribunal better to explain at a grass-roots level its method of operations, its decisions and what facts have been proved beyond a reasonable doubt in order to promote local visibility of justice served, prevent revisionism and foster reconciliation. To satisfy this need the Tribunal in May 2004 held the first in a projected series of community events in Bosnia and Herzegovina intended to bridge the gap between the Tribunal and communities most affected by crimes dealt with in cases at The Hague. The event, in the northern Bosnian town of Brcko, gave investigators, prosecutors and court staff directly involved in cases relevant to Brcko the opportunity to provide local leaders and victims' associations with a comprehensive and candid first-hand review of the investigation process, as well as the subsequent indictment and prosecution of persons most responsible for crimes. Importantly, the event also provided a strategic platform for the Tribunal to ensure audiences in the former Yugoslavia understand that as the Tribunal completes its

mission, with investigations concluding at the end of 2004, that they should strive to ensure that the relevant local authorities — law enforcement agencies and the judiciary — investigate, and where relevant prosecute, all serious allegations of war crimes.

321. Throughout the reporting period the programme carried a diverse range of public relations activities. It produced and widely distributed a significant number of key and basic Tribunal documents in languages of the region of the former Yugoslavia. These included all public indictments, judgements, rules of procedure and evidence, press releases, leaflets, etc. Such materials have been made available in print and on both CD-ROM and videotape, as well as being placed on an extensive Bosnian/Croatian/Serbian, as well as Albanian, section of the Tribunal's web site managed by the outreach programme.

322. Further assisting the visibility and transparency of the Tribunal, the outreach programme has, with the technical assistance of the Public Information Services Section and a non-governmental organization, established and maintained the live audio and video broadcast on the Internet of all public Tribunal court sessions. Audiences are able to follow trials in English, French, Bosnian/Croatian/Serbian and, in cases relevant to Kosovo, Albanian.

323. Seeking to address damaging negative perceptions in the region of the Tribunal as remote, disconnected and unresponsive, the outreach programme has established close contacts between the Tribunal and regional organizations, developing networks of groups and individuals. It engages local legal communities and non-governmental organizations, victims' associations, truth and reconciliation bodies and educational institutions. Existing links with international intergovernmental and non-governmental organizations operating in the region have been strengthened to create two-way channels of communication. In that regard, the outreach programme has devised and implemented numerous symposiums, round tables and workshops across the region. Many of those events have the aim of making the work of the Tribunal relevant to the national justice systems in the States of the former Yugoslavia. Importantly, the outreach programme has also brought many persons and groups from the region of the former Yugoslavia to the headquarters of the Tribunal at The Hague in order for them to meet with Tribunal officials and view court proceedings first hand.

324. As the public profile of outreach programme offices in the region has risen, the number of media enquiries has significantly increased. Outreach programme representatives provide extensive support to the regional media, participating in numerous print, radio and television interviews as well as providing the media with other extensive assistance. A comprehensive monitoring system of regional media has been established and is distributed throughout the Tribunal.

325. The outreach programme highlights the work of the Tribunal as an agency of reconciliation in south-eastern Europe, playing its part in securing the rule of law for the benefit of all citizens of the region. It continues to oversee information campaigns designed to familiarize social and professional communities in the region, such as government officials, political leaders, judges, prosecutors, defence attorneys and journalists, with the work of the Tribunal. Without those efforts, the legal and social impact of the Tribunal's work would be significantly diminished.

326. Although seen by the Tribunal as a core activity, the outreach programme has been funded exclusively through voluntary contributions since its inception in September 1999. In the period under review, support was generously provided by the European Union, Norway and the Canadian International Development Agency.

4. Voluntary contributions

327. The Voluntary Contributions Committee, a subsidiary committee of the Tribunal's Coordination Council, is chaired by the Registrar. All three organs of ICTY, Registry, Chambers and the Office of the Prosecutor, are represented in the Committee. The Committee secures strategic planning and coordinates initiatives towards fundraising for operational requirements within the organization.

328. The Committee coordinates the Tribunal's approach to donors, in order to avoid any duplication of efforts, to maximize the effectiveness of the strategy and to facilitate greater transparency between the Tribunal's organs.

329. A total of approximately $1,082,600 in voluntary contributions was received by ICTY during 2003. An overview of these contributions is contained in table 3 below.

Table 3
Voluntary contributions, 2003
(In United States dollars)

Date received (2003)	*Contributor*	*Amount*	*Project*
31 January	United Kingdom	81 900.00	Rules of the road
26 February	Canada	98 039.22	Outreach (3rd tranche)
28 March	Switzerland	80 000.00	Arrest initiative
31 March	Norway	25.00	Refund bank fees (October-December 2001)
28 April	European Community (702/2002/3048)	551 130.25	Outreach (advance payment)
9 May	United States of America	175 000.00	Rules of the road
13 May	Germany	43 907.79	Rules of the road
25 June	Canada	32 616.00	Macedonia investigations
28 July	United Kingdom	20 000.00	Victims and witnesses section field office, Bosnia
Subtotal		**1 082 618.26**	

330. Since 1994, ICTY has received a total of $44,544,751 in donations from various States Members and institutions of the United Nations.

331. During 2003, a number of extrabudgetary projects were completed, including:

- Training for defence counsel
- Specific military analysis by an analyst to be employed by the Office of the Prosecutor

- Victims and witnesses assistance and protection in the field
- Victims and witnesses contingency clothing and medical/dental support
- Jurisprudence/judicial database project compiling the jurisprudence of the Tribunal for internal and external access
- Satellite link with ICTR and the Special Court for Sierra Leone

332. Several extrabudgetary projects conducted in 2003 had residual balances and are expected to be completed by mid-2004. These include:

- Advocacy training for the Office of the Prosecutor to establish improvement of prosecution advocacy skills in ICTR
- Demographic project by the Office of the Prosecutor to study demographic changes in Bosnia and Herzegovina
- Exhumations to support a monitoring team to investigate secondary mass-grave sites
- Investigations relating to war crimes committed in Kosovo
- Project to investigate crimes committed in Macedonia

333. Three projects from 2003 will continue in 2004 and will require appeals to Member States and organizations to provide additional funding. These include the outreach programme; based on current projections, the project had funding to cover staff until the end of March 2004. The Tribunal was in the process of finalizing discussions with the European Commission for a contribution of 800,000 euros, which would cover the project until March 2005. Further, the rules of the road project requires funding. Based on current projections and outstanding pledges, the project had funding to cover staff until the end of June 2004. The Tribunal was in the process of appealing to Member States to cover the remainder of 2004. The Sarajevo field office of the Victims and Witnesses Section required funding. Based on current projections, the project had funding to cover staff until the end of November 2004. The Tribunal was in the process of appealing to Member States to cover the remainder of 2004.

334. The following 2003 projects will continue throughout 2004-2005:

- The Office of the Prosecutor's arrest initiative: project to employ a political officer to support the Prosecutor in the analysis of military documents
- Support for various library projects
- Temporary prosecutions and administrative support, to facilitate support of the Kosovo trial team
- Engagement of a temporary principal prosecution counsel
- Victims and witnesses regional support and ICTY/ICTR/Special Court for Sierra Leone cooperation

B. Judicial Support Division

335. During the reporting period, the Judicial Support Division was managed by David Tolbert, Deputy Registrar.

1. Chambers Legal Support Section

336. The Chambers Legal Support Section provides day-to-day legal and administrative support to the judges for the conduct of pre-trials, trials, pre-appeals and appeals. Each of the six ongoing trials is led by a P-3 Legal Officer assisted by a team consisting of the three P-2 Associate Legal Officers assigned to the judges in that trial, plus one P-2 Associate Legal Officer assigned to the Chamber as a whole, under the overall supervision of the P-5 Senior Legal Officer. The support structure for the Appeals Chamber has also been revised to provide for the increased number of appeals from judgement over the reporting period, from two filed in the previous reporting period to seven filed in the current reporting period. The number of appeals from judgement currently pending before the Appeals Chamber is 11. The Appeals Chamber support structure has at least one P-5 Senior Legal Officer or a P-3 Legal Officer providing leadership in the conduct of each appeal. In addition, all teams in the Trial Chambers and Appeals Chamber must provide support to the judges for the pre-trial and pre-appeal process, which can be complex and time consuming.

337. The overall legal and managerial support for each Chamber is supervised by the P-5 Senior Legal Officer. In addition to the pre-trial or pre-appeal management responsibilities described below, the Senior Legal Officers are responsible for providing specialized legal guidance on a daily basis to the staff working within Chambers in order to ensure accuracy and consistency as far as possible in the functioning among and within the Chambers and the judicial decisions of the Court. The P-5 Senior Legal Officers also undertake many administrative and management responsibilities for the Chambers. The P-3 Legal Officer is responsible for the daily management of a trial or appeal and coordinates with the judges, the P-5 Senior Legal Officer and the P-2 Associate Legal Officers on legal research, the disposition of motions, the management of evidence, and the preparation and drafting of decisions and judgements. The significant increase in the workload and complexity of the cases before the Chambers has placed even greater demands upon the staff in the Chambers Legal Support Section.

338. The Senior Legal Officers of the Section continue to implement the substantial responsibilities assigned to them in respect of pre-trial and pre-appeal management. Pursuant to rule 65 ter (D) and rule 107 and under the authority and direction of the pre-trial or pre-appeal judge, the Senior Legal Officers oversee the practical implementation of and compliance with the rules governing pre-trial and pre-appeal management. In particular for trials, this entails convening and chairing meetings with the parties on a regular basis with a view to overseeing the performance of disclosure obligations, examining any potential for agreement on factual and legal issues and the number of witnesses to be called, and to discuss and facilitate such matters as the preparation of translations and the resolution of other practical issues.

339. The Section also assists the judges in plenary session and the Bureau whenever there are questions concerning Chambers as a whole and provides support to a number of committees established by the judges, such as the Rules Committee and the Working Group on the Planning of Trials.

2. Court Management and Support Services Section

340. The Court Management and Support Services Section is primarily responsible for the coordination and implementation of the preparatory and organizational

judicial support tasks for the conduct of all court proceedings. The responsibilities of the Section include:

- Coordinating the schedules and use of courtroom facilities
- Implementing judicial decisions and orders
- Drafting the court-related decisions and submissions of the Registrar
- Filing, indexing and distributing all case documents
- Managing the transcripts of all hearings, including the release for publishing on the Internet
- Arranging prompt translations of all filings
- Maintaining and updating the calendar of scheduled hearings
- Handling and maintaining original courtroom exhibits
- Preparing procedural minutes
- Registering and retaining custody of briefs, motions, orders, decisions and judgements
- Maintaining the Tribunal's record book
- Storing and archiving the judicial documents of the Tribunal
- Maintaining the judicial database

341. The tasks are carried out by the three units within the Section: the Court Unit (court officers, court records assistants and courtroom clerks); the Transcript Unit (text-processing clerks); and the Judicial Archives Unit.

342. The Section has actively participated and contributed to the implementation process to enable morning and evening sessions, allowing the simultaneous running of six trials. As a result of this, the workload of the Section has grown in the last two years.

343. Pursuant to rule 65 ter (D) and (H), the senior legal officers and pre-trial judges have continued on an increasing basis to organize pre-trial hearings with the parties. The Court Unit is actively involved in the coordination of the scheduling of these pre-trial meetings and assists in providing and organizing all required facilities, such as interpretation and court reporting.

344. The Section is also responsible for the coordination and implementation of video links, as ordered by the Chamber. In the reporting period video links were held in Hungary, the United States and the former Yugoslavia.

345. During the reporting period, rule 92 bis, which governs the admission of witness statements in lieu of oral testimony, continues to be used extensively in most cases. The Section coordinates and implements the appointment of presiding officers by the Registrar. The presiding officers, typically court officers of the Section, oversee the certification of the witness statements.

346. Great efforts have been made by the Section staff to respond to the various practical difficulties that have arisen with the introduction of electronic filings. During the reporting period new challenges have been taken up to move towards

developing a system which electronically numbers all filings and utilizes an electronic signature.

347. The Section has been actively involved in the implementation of an innovative judicial database project, designed to enter all case files into a searchable computer database accessible throughout the Tribunal, and ultimately to be made accessible to the public through the Internet. Although Tribunal staff had access to the judicial database in June 2003, the database was not complete until December 2003, when the backlog scanning project was completed. Public access to the judicial database was also provided to defence counsel in the defence counsel area in April 2004.

348. An EU-funded inter-Tribunal cooperation project has fuelled the exchange of information between the Court Management Sections of ICTR and ICTY. Under the cooperation agreement, representatives of the Court Management Section visited Arusha in October 2003 and exchanged information on procedures and practices to establish the groundwork for future harmonization. A reciprocal visit from an ICTR representative took place in December 2003. As a result of these visits, a plan and schedule for future cooperation and information-sharing is being implemented.

349. In the reporting period the Section participated in a strategic planning exercise, resulting in a two-year plan for the Section. The implementation of the first quarter of the plan was completed in the reporting period.

3. Victims and Witnesses Section

350. The Victims and Witnesses Section is a neutral office working to protect, support and meet the logistical needs of all witnesses who appear before the Tribunal, whether called by the prosecution, the defence or the Chambers. The Section, headed by a Chief, is made up of the Protection Unit, the Support Unit and Operations Units and has a total of 43 staff members. The Section, where necessary, provides victims and witnesses with counselling and assistance. It also undertakes to ensure that the safety and security needs of witnesses are met and informs them of the proceedings and their reasonable expectations within those proceedings. The Section makes travel, accommodation, financial and other logistical and administrative arrangements for witnesses and accompanying persons, and maintains close contact with the trial teams regarding all aspects of witnesses' appearances before the Tribunal.

351. During the reporting period, 534 witnesses and accompanying persons travelled to The Hague, predominately from the region of former Yugoslavia. The majority of these witnesses were victim witnesses. To meet the needs of these witnesses, the Section continues to expand its collaboration with Member States and national and international humanitarian services. The requirement for protection services has increased owing to both prosecution and defence counsels seeking enhanced protection measures for witnesses before, during and after testimony, which has prompted the Tribunal to continue its negotiations with States regarding the relocation of witnesses.

352. The Section, through its Support Unit, provides professional expertise to the Tribunal on victim issues, and provides 24 hour per day access to professional counselling and support services for all witnesses. To strengthen support services to witnesses, particularly victim witnesses residing in the territories of the former Yugoslavia, the Support Unit has conducted a series of ground-breaking conferences with health and welfare professionals practising in the areas where witnesses reside.

This series of conferences is designed to transfer knowledge and skills to professionals with the intention of developing an enduring response to the post-testimony needs of victims and witnesses particularly in the light of the Tribunal's completion strategy. This initiative is funded through a donation from the European Commission.

353. While the Section is funded through the Tribunal's regular budget, it is also supported through generous donations from Member States and the European Commission. In the previous reporting period, the European Commission contributed to the development of the protection services through an external expert report, which resulted in reorganization of the Protection Unit. The Unit has continued improving practices relating to the relocation and protection of witnesses and has implemented 95 per cent of the recommended practices.

354. The Section operates one field office in the former Yugoslavia, which is based in Sarajevo. The primary role of this office is to enhance support and protection services provided to witnesses, particularly those who are especially vulnerable or sensitive. The office has a staff of three and has been exclusively funded through voluntary contributions from Canada and the United Kingdom since its inception. It had been proposed that the Sarajevo field office be included in the Tribunal's main budget for 2004-2005, however this was not approved, and the two donor countries continued their financial support through the period under review. A current proposal rests with the United Nations Headquarters to assume responsibility for the Field Office through post redeployments commencing January 2005.

4. Office of Legal Aid and Detention Matters

355. The Office of Legal Aid and Detention Matters is responsible for managing the legal aid system of the Tribunal and legal matters relating to the detention of the accused. The Office is also in charge of the operational aspects of enforcement of sentences.

356. Following reports from the General Assembly that encourage the Registry to continue to reform its legal aid system and save on defence costs, and faced with the need to ensure better management of legal aid, the Office took further steps to improve its policies and payment systems.

357. In addition to the ceilings already put in place in the payment systems for the pre-trial and appeals stages, the lump sum system for the trial stage, introduced in 2003, is now fully operational. At present, six cases at trial are funded under this new system and the advantages in terms of efficiency and administration are clear, both for the Registry and the defence teams despite a number of minor adjustments made in the course of the year. It is expected that the system will be tested and will need to be amended on some points until the first cases are completed.

358. The Office of Legal Aid and Detention Matters has developed a similar such system for the pre-trial stage. A proposal is presently being discussed between the Registry and the Association for Defence Counsel.

359. Following several interventions from the court, the Office has introduced a new policy to determine whether an accused is indigent, that is, has the means to remunerate counsel. This new policy calculates the necessary basic living expenses of the accused's family and subtracts this amount from the accused's means, to determine the accused's ability to pay. The new policy is — consistent with the

judicial decisions — more generous to accused with only limited means, but its application will ultimately require significantly higher contributions from wealthier accused.

360. The Registry investigator continued his dual role to assess the financial situation of indigent accused and to investigate fraud and other financial misconduct by counsel and/or defence teams, including reported cases of "fee splitting" in which counsel and the accused arrange to share the lawyer's fees. The work of the investigator has led to a significant number of findings of partial indigence (15 between June 2002 and June 2004 amounting to savings of more than $1 million), several actions for recovery and disciplinary complaints. It is the hope of the Registry to be able to recruit another investigator in order to be able to investigate all outstanding issues and upcoming complaints, but present resources cannot accommodate it.

361. The Association for Defence Counsel has become a fully recognized institution at the Tribunal, which, under new leadership elected in October 2003, has taken strong positions advocating the interests of defence counsel. The Registry is involving the Association for Defence Counsel in its policy decisions as much as possible and has developed an often fruitful, if somewhat turbulent relationship with the Counsel. The Registry remains hopeful that the Counsel can become a constructive force in improving the institution overall, in particular policing the conduct of its own membership.

362. An additional step taken to improve the quality of defence counsel working before the Tribunal is the recent proposal from a working group of judges tightening the criteria for the assignment of counsel. The new guidelines that would raise the bar for defence counsel require approval from the Tribunal's plenary in late July 2004.

363. Within the framework of the inter-Tribunal cooperation project the Office of Legal Aid and Detention Matters has, with its counterpart at ICTR, worked on a joint proposal for an independent team of experts to evaluate, at the end of a case, the work done by defence counsel against the amount of legal aid provided. This proposal was drawn up pursuant to a General Assembly recommendation.

364. The Office of Legal Aid and Detention Matters has been working on a revision of the rules of detention, which seek to rationalize all the existing rules and review the procedure for visits and communication with the detainees as well as the rules on access to medical records. The Registrar submitted a plan for consideration, which was approved in principle, by the judges at the plenary on 28 July 2004.

5. Detention Unit

365. The Detention Unit serves the judicial process in ensuring the physical and mental well-being of the accused in order that they may answer the counts against them in the court of law.

366. The Detention Unit maintains its capacity to hold 68 detainees, as well as adequate staffing and resources to provide a remand programme in keeping with European and international standards. The reporting period was notable due to a marked increase in the number of arrivals and transfers of both detainees permitted provisional release pending the commencement of their trials and convicted persons to States for the enforcement of their sentences.

367. The staffing level has been maintained at 79 guards, supplied through the Netherlands prison service and financed through a services and facilities agreement. That number is augmented by one guard supplied through the Government of Austria and funded through a reimbursable loan. In order to withstand the increased demands, negotiations with the Government of the Czech Republic are at an advanced stage which will further enhance staffing by four guards supported through an additional reimbursable loan.

6. Conference and Language Services Section

368. The in-house resources of the Conference and Language Services Section were used to full capacity in both translation and interpretation. With the ongoing workload and pace of deadlines, the Section also had to rely on outside contractors for the timely provision of its services. The annual output in translation was nearly 75,000 standard United Nations pages covering all ICTY language combinations.

369. With a view to maximizing performance and the efficient use of available in-house resources, the Section introduced computer-assisted translation tools into its work process, thus also ensuring the highest possible level of consistency in translation.

370. In response to the ongoing demand for language-related services in translation and consecutive and simultaneous interpretation, the Section continued to organize competitive examinations in translation and interpretation, maintaining its active roster of external contractors.

371. The Section continues to provide transcripts of all courtroom proceedings in English and French, with a view to ensuring the highest quality service in the most cost-effective way.

372. Within the scope of the inter-Tribunal cooperation project, the Section continued to provide terminology support to its ICTR counterpart in the form of databases and glossaries. It also embarked on a similar cooperation project with the Special Court for Sierra Leone.

7. Law library

373. The ICTY library is the research and information centre that serves the Office of the Prosecutor, Chambers, the Registry, defence counsel and ICTY staff.

374. The library's main collection consists of the principal sources of international law, international humanitarian law, criminal international law as well as national substantive and procedural criminal law, case law representing civil and common law countries, records of national and international war crimes trials, and general and specialized reference materials. The library subscribes to the major international/national law journals. In addition to this main collection, the library has an extensive Bosnian/Croatian/Serbian collection of criminal law and reports/documents/monographs about the conflict essential for researchers.

375. During this reporting period, the third EU grant has been implemented in order to expand the core collection of national case law and law journals, and to facilitate users' access to online databases/CD-ROMs.

376. The library continued to make available to its users information, documentation, internet facilities and interlibrary loans as required. The collection

of books, law journals and documents has continued to grow, as has the number of requests for research assistance.

C. Division of Administration

377. During the reporting period, the Division of Administration was managed by Kevin St. Louis.

1. Budget and finance

378. For the biennium 2004-2005, the Secretary-General's budget proposals for the Tribunal amounted to $262,283,100 gross ($234,808,500 net). This represented a decrease in real terms (before exchange rate and inflation adjustments) of approximately $1 million compared with the 2002-2003 budget.

379. The budget proposals were re-costed to account for inflation and exchange rate fluctuations. Owing to the weakening of the United States dollar vis-à-vis the euro (which represents the primary currency of the Tribunal), the re-costed budget amounted to $329,616,100 gross ($298,687,000 net) reflecting an increase of some $64 million in nominal terms.

380. In terms of staffing, the proposed budget contemplated a gradual reduction in posts in the Investigations Division resulting from the anticipated completion of all pre-indictment investigations by the end of 2004 in line with the completion strategy. In particular, a total of 61 posts were proposed for abolition in the Investigations Division, of which 18 were proposed for redeployment to trial and appeals work within the Office of the Prosecutor, the Chambers Legal Support Section and the Registry. After redeployments, 43 posts (61 minus 18) were proposed for abolition as from 2005.

381. After submission of the ICTY budget, the Security Council, in its resolution 1503 (2003), decided to establish the new position of Prosecutor of ICTR. The report of the Secretary-General related to this resolution recommended the redeployment of 10 posts from the immediate office of the Prosecutor of ICTY to the ICTR (resulting in a reduction of approximately $2 million as compared with the original budget).

382. By its resolution 58/255 of 23 December 2003, the General Assembly decided to appropriate $298,226,300 gross ($271,854,600 net) for the biennium 2004-2005 representing a decrease of some $28 million as compared with the proposed level of resources. The decrease related mainly to the temporary withholding of the budget of the Investigations Division for 2005. In this regard, the Assembly requested the Tribunal to resubmit proposals for the resources of the Investigations Division in 2005 for review at its fall 2004 session. The staffing table approved for 2004 includes a total of 1,048 regular posts; a reduction of 10 posts vis-à-vis 2003 levels.

2. Human Resources Section

383. At the end of July 2004, the Human Resources Section had processed 27,000 job applications during the preceding 12-month period. In addition to actual recruitment, human resources oversaw the administration of a total of 1,180 staff members, including 488 at the Professional level (41 per cent of whom are female) and 692 at the General Service level charged against assessed budget and

extrabudgetary posts. In this 12-month period, 125 new staff members were recruited, 48 of whom were internationally recruited. The Tribunal currently has staff members from 84 countries. A total of 187 other personnel (mainly interns) provided assistance to the Tribunal during the reporting period. The number of consultants and individual contractors totalled 320. Over 568 staff members have taken part in in-house training courses. During the reporting period, the Section introduced the new staff selection system (Galaxy). Through the appointment of a Medical Doctor, the Tribunal is now in a better position to monitor the well-being of staff and to provide occupational health support.

384. With the Tribunal currently at the peak of its activity, the Human Resources Section's implementation of the completion strategy is now under way. An advisory panel is being established to review the position of staff who are to be affected by the abolishment of posts. In addition, an outplacement career programme has been set up to assist staff in preparing for separation from ICTY and finding employment elsewhere.

385. The recruitment freeze has significantly increased the vacancy rate across the Tribunal. Several areas of the Tribunal currently have strategic posts that are being left vacant until such time as the freeze is lifted. The Tribunal continues to advertise posts and conduct the recruitment processes so that it will be in a position to bring the necessary staff on board as soon as the freeze is lifted.

3. General Services Section

386. The General Services Section provides support services to all divisions of the Tribunal, both in The Hague and in the field offices, including travel services, personal effects shipments, visa and entitlements, logistics, supply stores operation, reproduction and graphics, vehicle fleet management and the complete range of building management services.

387. With the closure of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) in July 2003, the Tribunal assumed responsibility for the United Nations House in Sarajevo. Through its existing staff, the Facilities Management Unit oversees the operation of the 12,000 square metre office complex through an occupant's management committee. As a result, the Tribunal obtained rent free occupancy privileges and the United Nations continues to benefit from its capital investment in the complex.

388. In support of initial completion strategy activities, the General Services Section planned and organized the orderly closure of the forensics programme of the Office of the Prosecutor and the Tribunal's field offices in Skopje, Macedonia and Pristina, Kosovo. Surplus assets, including special equipment and vehicles, were transferred to agencies with compatible mandates such as UNMIK, the International Commission on Missing Persons and the European Union Police Mission in Bosnia and Herzegovina.

389. The Administrative Records Management Unit began coordination with the Archives and Records Management Section at Headquarters to plan and prepare the turnover of the Tribunal's historic records upon closure. It is envisioned these coordination efforts will also include ICTR in the coming period. The Unit also supports the Registrar's legacy initiative, researching a variety of issues that will continue beyond the Tribunal's direct mandate. This includes various methods for

the effective dissemination of Tribunal judicial records to interested parties, such as legal bodies and education institutions in the former Yugoslavia and international legal institutions.

4. Information Technology Services Section

390. The Information Technology Services Section provides infrastructure support, applications development and information technology training to all divisions of the Tribunal, at the four sites in The Hague and the six field offices. In addition to the continuing provision of computers, network, telephone and audio-visual services and equipment, the Section was able to field significant new services, including a telephone/videoconference/television/data satellite link to the Rwanda Tribunal, an online Internet-based electronic disclosure system and a comprehensive Intranet service entitled The Tribunet.

391. The judicial database, now fully established, contains an up-to-date compendium of all of the decisions and filings of the Tribunal. This tool has proven to be an invaluable asset to the legal staff and judges, and has dramatically improved the Tribunal's research capacity. During the course of the current biennium, the judicial database project will be expanded to provide Internet access to the defence, non-governmental organizations, academic institutions and the public at large. Other projects aimed at improving the efficiency and effectiveness of the Tribunal currently in execution are a complete update of the electronic courtroom environment, a wider range of services to the defence counsel and an enterprise-wide system for managing the translation workflow.

5. Security and Safety Section

392. The Security and Safety Section remains the largest single section in the Tribunal. In the wake of the attack on the United Nations at Baghdad and the heightened security environment, the section has extensively reviewed its existing security arrangements and is in discussion with the host nation authorities concerning additional measures. Meanwhile, the range of tasks confronting the Section remains substantial, with officers deployed to all Tribunal field offices, as well as the three buildings used by the Tribunal in The Hague.

393. Over the early part of 2004, the Section has experienced a significant increase in staff turnover levels and this turnover is expected to increase as the Tribunal moves closer to the completion of its mandate.

VI. Conclusion

394. Since its establishment by the Security Council in its resolution 827 (1993) of 25 May 1993, the Tribunal has sought to bring to justice those responsible for the mass atrocities and serious violations of international humanitarian law that occurred in the former Yugoslavia during the years of the conflict.

395. For over 10 years, the Tribunal has remained committed to bringing an end to impunity by trying those most responsible for serious violations of international humanitarian law. It has maintained its pressure on the Governments of the former Yugoslavia to cooperate with its efforts, as the Statute requires all States to do. Trials against senior-level accused from various parts of the region have increased

as a result. Many accused, including high-level accused, have voluntarily surrendered to the Tribunal and an unprecedented number of accused have entered guilty pleas before it.

396. During the present reporting period the Tribunal has undertaken various internal reforms to increase the efficiency of its proceedings and implemented various projects to assist the capacity of the courts in the former Yugoslavia to conduct war crimes prosecutions. The Trial Chambers have continued to operate at full capacity, running six trials simultaneously, and the Tribunal has rendered judgements in a record number of trials and appeal proceedings. The Tribunal has worked closely with the Office of the High Representative in the establishment of a special chamber for war crimes prosecutions in the State Court of Bosnia and Herzegovina and it is expected that the chamber will be fully operational by January 2005. The Tribunal has also been active in other States of the former Yugoslavia conducting training seminars of local judiciary and prosecutors.

397. While the Tribunal has maintained its commitment to its mandate, it has struggled to maintain a parallel commitment on the part of the international community. At present, the financial position of the Tribunal is in critical condition due to non-payment of assessments by Member States. In response, the Secretary-General determined to keep all expenditures to a minimum and imposed a recruitment freeze on all posts and a severe cutback of all other expenditures. The Tribunal must receive the necessary support from the international community if it is to fulfil its mandate within the framework of the completion strategy.

Annex I

List of persons indicted by the Tribunal since its inception

(total current cases: 47 (see explanation below); and total number of indicted persons: 82 (see explanation below))

Date/No.	*Case details*
04/11/94	**NIKOLIĆ ("SUŠICA CAMP")**
	Last amended 31/10/03 following plea agreement.
IT-94-2	Dragan Nikolić : c.
13/02/95	**# TADIC ("PRIJEDOR")**
	Last amended 14/12/95.
IT-94-1	Duško Tadić : g., v., c. *Case completed.*
	Goran Borovnica : g., v., c. *Separated from indictment (see Case No. IT-94-3 below).*
13/02/95	**BOROVNICA ("PRIJEDOR")**
	Last amended 14/12/95.
IT-94-3	Goran Borovnica : g., v., c. *Remains at large.*
13/02/95	**# MEJAKIĆ ET AL. ("OMARSKA CAMP")**
	Last amended 05/07/02.
IT-95-4	Željko Mejakić : v., c. *Indictment joined with Fuštar et al."Keraterm Camp" and re-numbered as Case No. IT-02-65 on 21/11/02 (see below).*
	Momčilo Gruban : v., c. *Indictment joined with Fuštar et al. "Keraterm Camp" and re-numbered as Case No. IT-02-65 on 21/11/02 (see below).*
	Dušan Knežević : v., c. *Indictment joined with Fuštar et al. "Keraterm Camp" and re-numbered as Case No. on IT-02-65 on 21/11/02 (see below).*
	Dragoljub Prcać : v., c. *Separated from indictment (see Case No. IT-98-30/1 below).*
	Miroslav Kvočka : v., c. *Separated from indictment (see Case No. IT-98-30/1 below).*
	Mlado Radić : v., c. *Separated from indictment (see Case No. IT-98-30/1 below).*
	Milojica Kos : v., c. *Separated from indictment (see Case No. IT-98-30/1 below).*
	Zoran Žigić : v., c. *Separated from indictment (see Case No. IT-98-30/1 below).*
	Zdravko Govedarica : *Charges withdrawn 08/05/98.*

Date/No.	*Case details*
	Goran Gruban : *Charges withdrawn 08/05/98.*
	Predag Kostić : *Charges withdrawn 08/05/98.*
	Neđeljko Paspalj : *Charges withdrawn 08/05/98.*
	Milan Pavlić : *Charges withdrawn 08/05/98.*
	Milutin Popović : *Charges withdrawn 08/05/98.*
	Draženko Predojević : *Charges withdrawn 08/05/98.*
	Željko Savić : *Charges withdrawn 08/05/98.*
	Mirko Babić : *Charges withdrawn 08/05/98.*
	Nikica Janjić : *Charges withdrawn 08/05/98.*
	Dragomir Šaponja : *Charges withdrawn 08/05/98.*
21/07/95	**SIMIĆ ET AL. ("BOSANSKI ŠAMAC")**
	Last amended 30/05/02.
IT-95-9	Blagoje Simić : g., c.
	Miroslav Tadić : g., c. *Case completed.*
	Simo Zarić : g., c. *Case completed.*
	Milan Simić : c. *Separated from indictment (see Case No. IT-95-9/2 below). Case completed.*
	Stevan Todorović : g., c. *Separated from indictment (see Case No. IT-95-9/1 below). Case completed.*
	Slobodan Miljković : g., c. *Accused deceased 08/04/98.*
21/07/95	**# TODOROVIĆ ET AL. ("BOSANSKI ŠAMAC")**
	Last amended 24/01/01.
IT-95-9/1	Stevan Todorović : c. *Case completed.*
21/07/95	**# SIMIĆ ("BOSANSKI ŠAMAC")**
	Last amended 28/05/02.
IT-95-9/2	Milan Simić : c. *Case completed.*
21/07/95	**# JELISIĆ ("BRCKO")**
	Last amended 19/10/98. Originally part of same indictment as Češić (see Case No. IT-95-10/1 below).
IT-95-10	Goran Jelisić : v., gen., c. *Case completed.*

Date/No	*Case details*
21/07/95	**# ČEŠIĆ ("BRCKO")**
	Last amended 26/11/02. Originally part of same indictment as Jelisić (see Case No. IT-95-10 above).
IT-95-10/1	Ranko Češić : v., c. *Case completed.*
21/07/95	**# FUŠTAR ET AL. ("KERATERM CAMP")**
	Last amended 05/07/02.
IT-95-8/1	Dušan Fuštar : v., c. *Indictment joined with Mejakić et al. "Omarska Camp" and re-numbered as Case No. IT-02-65 on 21/11/02 (see below).*
	Predrag Banović : v., c. *Indictment joined with Mejakić et al. "Omarska Camp" and re-numbered as Case No. IT-02-65 on 21/11/02 (see below).*
	Dušan Knežević : v., c. *Indictment joined with Mejakić et al. "Omarska Camp" and re-numbered as Case No. IT-02-65 on 21/11/02 (see below).*
	Duško Sikirica : *Separated from indictment (see Case No. IT-95-8 below).*
	Damir Došen : *Separated from indictment (see Case No. IT-95-8 below).*
	Dragan Kolundžija : *Separated from indictment (see Case No. IT-95-8 below).*
	Nenad Banović : *Charges withdrawn 10/04/02.*
	Nikica Janjić : *Charges withdrawn 12/06/96.*
	Dragan Kondić : *Charges withdrawn 12/06/96.*
	Goran Lajić : *Charges withdrawn 12/06/96.*
	Dragomir Šapona : *Charges withdrawn 12/06/96.*
	Nedeljko Timarac : *Charges withdrawn 12/06/96.*
	Zoran Žigić : *Charges withdrawn 12/06/96.*
21/07/95	**# SIKIRICA**
	Last amended 30/08/99.
IT-95-8	Duško Sikirica : c. *Amended 19/09/01 following plea agreement. Case completed.*
	Damir Došen : c. *Amended 19/09/01 following plea agreement. Case completed.*
	Dragan Kolundžija : c. *Amended 04/09/01 following plea agreement. Case completed.*
24/07/95; *16/11/95*	**KARADŽIĆ ("BOSNIA and HERZEGOVINA" and "SREBRENICA")**
	Last amended 31/05/00. Originally indicted with Mladić (see below) under two separate indictments, one for Bosnia and Herzegovina and one for Srebrenica.
IT-95-5/18	Radovan Karadžić : g., v., gen., c. *Accused remains at large.*

Date/No.	*Case details*
24/07/95; 16/11/95	**MLADIĆ ("BOSNIA and HERZEGOVINA" and "SREBRENICA")**
	Last amended 31/05/00. Originally indicted with Karadžić *(see above) under two separate indictments, one for Bosnia and Herzegovina and one for Srebrenica.*
IT-95-5/18	Ratko Mladić : v., gen., c. *Last amended 11/10/02. Accused remains at large.*
25/07/95	**MARTIĆ ("ZAGREB BOMBING")**
	Last amended 09/09/03.
IT-95-11	Milan Martić : v., c.
29/08/95	**RAJIĆ ("STUPNI DO")**
	Last amended 14/01/04.
IT-95-12	Ivica Rajić : g., v.
07/11/95	**MRKŠIĆ ET AL. ("VUKOVAR HOSPITAL")**
	Last amended 09/02/04.
IT-95-13/1	Mile Mrkšić : v., c.
	Miroslav Radić : v., c.
	Veselin Šljivančanin : v., c.
IT-95-13a	Slavko Dokmanović : v., c., g. *Added to the Mrkšić indictment 03/04/96; Kept confidential until 27/06/97; Accused deceased 29/06/98.*
10/11/95	**# FURUNDŽIJA ("LAŠVA VALLEY")**
	Last amended 02/07/98.
IT-95-17/1	Anto Furundžija : v. *Case completed.*
10/11/95	**BLAŠKIĆ ("LAŠVA VALLEY")**
	Last amended (corrigendum) 16/03/99.
IT-95-14	Tihomir Blaškić : g., v., c.
	Dario Kordić : *Separated from indictment (see Case No. IT-95-14/2 below).*
	Mario Čerkez : *Separated from indictment (see Case No. IT-95-14/2 below).*
	Zlatko Aleksovski : *Separated from indictment (see Case No. IT-95-14/1-A below).*
	Ivan Šantić : *Charges withdrawn 19/12/97.*
	Pero Skopljak : *Charges withdrawn 19/12/97.*
10/11/95	**# ALEKSOVSKI ("LAŠVA VALLEY")**
IT-95-14/1-A	Zlatko Aleksovski : g., v. *Case completed.*

Date/No.	*Case details*
10/11/95	**KORDIĆ AND ČERKEZ ("LAŠVA VALLEY")**
	Last amended 30/09/98.
IT-95-14/2	Dario Kordić : g., v., c.
	Mario Čerkez : g., v., c.
10/11/95	**# MARINIĆ ("LAŠVA VALLEY")**
	Kept confidential until 27/06/96.
IT-95-15	Zoran Marinić : *Charges withdrawn 03/10/02.*
10/11/95	**# KUPREŠKIĆ ET AL. ("LAŠVA VALLEY")**
	Zoran Kupreškić : *v., c. Found not guilty by the Appeals Chamber.*
IT-95-16-A	Mirjan Kupreškić : *v., c. Found not guilty by the Appeals Chamber.*
	Vlatko Kupreškić : *v., c. Found not guilty by the Appeals Chamber.*
	Drago Josipović : v., c. *Case completed.*
	Dragan Papić : c. *Acquitted.*
	Vladimir Šantić : v,. c. *Case completed.*
	Stipo Alilović : *Accused deceased 25/10/95; Withdrawn from indictment 27/12/97.*
	Marinko Katava : *Charges withdrawn 19/12/97.*
29/02/96	**# DJUKIĆ**
IT-96-20	Dorde Djukić : v., c. *Accused deceased 18/05/96.*
21/03/96	**# MUCIĆ ET AL. ("ČELEBIĆI CAMP")**
	Last amended 16/01/98
IT-96-21	Zejnil Delalić : g., v. *Acquitted.*
	Zdravko Mucić : g., v. *Case completed.*
	Hazim Delić : g., v. *Case completed.*
	Esad Landžo : g., v. *Case completed.*
29/05/96	**# ERDEMOVIĆ ("PILICA FARM")**
IT-96-22	Drazen Erdemović : v., c. *Case completed.*
26/06/96	**KUNARAC ET AL. ("FOČA")**
	Gojko Janković : v., c., *last amended 01/12/99. Remains at large.*
IT-96-23	Dragan Zelenović : v., c., *last amended 01/12/99. Remains at large.*
	Radovan Stanković : *Separated from indictment (see Case No. IT-96-23/2 below).*

Date/No.	*Case details*
	Radomir Kovač : v. c., *last amended 01/12/99. Case completed.*
	Dragoljub Kunarac : v., c., *last amended 01/12/99. Case completed.*
IT-96-23/1	Zoran Vuković : v., c., *last amended 21/02/2000. Case completed.*
	Dragan Gagović : *Accused deceased 09/01/99; Withdrawn from indictment 30/07/99.*
	Janko Janjić : v., c., *Accused deceased 12/10/00.*
26/06/96	**STANKOVIĆ ("FOČA")**
	Last amended 03/03/03.
IT-96-23/2	Radovan Stanković : v., c.,
13/03/97	**STAKIĆ ("PRIJEDOR")**
	Kept confidential until 23/03/01.
	Last amended 10/04/02.
IT-97-24	Milomir Stakić : gen., c., v.
	Milan Kovačević : gen., c., v., g. *Accused deceased 01/08/98.*
	Simo Drljača : gen. *Accused deceased 10/07/97.*
17/06/97	**KRNOJELAC ("FOČA — KP DOM CAMP")**
IT-97-25	Milorad Krnojelac : v., c., *Kept confidential until 15/06/98; last amended 25/06/01. Case completed.*
	Savo Todović : g., v., c., *Kept confidential until 29/11/01. Remains at large.*
	Mitar Rašević : g., v., c., *Kept confidential until 29/11/01; last amended 12/05/04.*
30/09/97	**# RAZNJATOVIĆ ("ARKAN")**
IT-97-27	Željko Raznjatović : g., v., c., *Accused deceased 15/01/00.*
24/04/98	**GALIĆ AND MILOŠEVIĆ ("SARAJEVO")**
IT-98-29	Stanislav Galić : v., c., *Kept confidential until 20/12/99; last amended 26/03/99.*
	Dragomir Milošević : v., c., *Partially confidential until 02/11/01. Remains at large.*
26/10/98	**VASILJEVIĆ ("VIŠEGRAD")**
	Kept confidential until 25/01/00 and 30/10/00; last amended 20/07/01.
IT-98-32	Mitar Vasiljević : c., v. *Case completed.*
	Milan Lukić : c., v. *Remains at large.*
	Sredoje Lukić : c., v. *Remains at large.*

Date/No.	*Case details*
02/11/98	**KRSTIĆ and PANDUREVIĆ ("SREBRENICA-DRINA CORPS")**
	Kept confidential until 02/12/98, last amended 27/10/99.
IT-98-33	Radislav Krstić : gen., v., c. *Case completed.*
	Vinko Pandurević : gen., v., c. *Kept confidential until 07/12/01. Remains at large.*
	Vidoje Blagojević : *Separated from indictment (see Case No. IT-02-53 below).*
09/11/98	**KVOČKA ET AL. ("OMARSKA, KERATERM and TRNOPOLJE CAMPS")**
	The cases as regards these individuals were joined on 26/10/00.
IT-98-30/1	Miroslav Kvočka : v., c.
	Mlado Radić : v., c.
	Milojica Kos : v., c.
	Zoran Žigić : v., c.
	Dragoljub Prcać : v., c.
21/12/98	**NALETILIĆ and MARTINOVIĆ ("TUTA and ŠTELA")**
	Last amended 16/10/2001.
IT-98-34	Mladen Naletilić : g., v., c.
	Vinko Martinović : g., v., c.
14/03/99	**BRĐANIN ET AL. ("KRAJINA")**
	Kept confidential until 06/07/99.
IT-99-36 & 36/1	Radoslav Brđanin : v., gen., c., g. *Last amended 09/12/03.*
	Momir Talić : v., gen., c., g. *Last amended 10/12/01. Accused deceased 28/05/03.*
IT-99-36	Stojan Župljanin : v., gen., c., g. *Added to indictment 17/12/99. Kept confidential until 31/07/01. Remains at large.*
24/05/99	**MILOŠEVIĆ ("KOSOVO, CROATIA and BOSNIA and HERZEGOVINA")**
	Initially indicted for Kosovo as part of case IT-99-37; initially indicted for Croatia on 08/10/01; initially indicted for Bosnia 22/11/01. Joinder of cases on 01/02/02.
IT-02-54	Slobodan Milošević :
	The Kosovo Indictment : v., c., *Last amended 29/10/01.*
	The Croatia Indictment : g., v., c., *Last amended 23/10/02.*

Date/No.	*Case details*
	The Bosnia and Herzegovina Indictment : gen., g., v., c. *Last amended 22/11/02, confirmed 21/04/04.*
24/05/99	**MILUTINOVIĆ ET AL. ("KOSOVO")**
	Last amended 05/09/02.
IT-99-37	Milan Milutinović : v., c.
	Nikola Šainović : v., c.
	Dragoljub Ojdanić : v., c.
	Slobodan Milošević : v., c. *Separated from indictment (see case IT-02-54 above).*
	Vlajko Stojilković : v., c. *Accused deceased 13/04/02.*
27/09/00	**LJUBIČIĆ ("LAŠVA VALLEY")**
	Kept confidential until 30/10/01.
IT-00-41	*Last amended 02/08/02.*
	Pasko Ljubičić : c., v.
27/02/01	**STRUGAR ET AL. ("DUBROVNIK")**
	Kept confidential until 02/10/01.
IT-01-42	*Last amended 31/03/03*
	Pavle Strugar : v.
	Miodrag Jokić : v. *Separated from indictment (case IT-02-42/1).*
	Vladimir Kovačević : v. *Separated from indictment (case IT-01-42/2).*
	Milan Zec : *Indictment withdrawn 26/07/02.*
19/03/01	**KRAJIŠNIK and PLAVŠIĆ ("BOSNIA and HERZEGOVINA")**
	Last amended 07/03/02.
IT-00-39 & 40/1	Momčilo Krajišnik : gen., c., v.
	Biljana Plašvić : c. *Last amended 20/12/02 following plea agreement. Case completed.*
08/06/01	**GOTOVINA ("OPERATION STORM")**
	Kept confidential until 26/07/01.
	Last amended 24/02/04 (under seal until 08/03/04).
IT-01-45	Ante Gotovina : c., v. *Remains at large.*

Date/No.	*Case details*
08/06/01	**ADEMI ("MEDAK POCKET")**
	Kept confidential until its disclosure on 25/07/01.
IT-01-46	*Last amended 01/02/02.*
	Rahim Ademi : c., v.
13/07/01	**HADŽIHASANOVIĆ ET AL. ("CENTRAL BOSNIA")**
	Kept confidential until 02/08/01.
IT-01-47	*Last amended 26/09/03.*
	Enver Hadžihasanović : v.
	Mehmed Alagić : v. *Accused deceased 07/03/03.*
	Amir Kubura : v.
12/09/01	**HALILOVIĆ ("GRABOVICA and UZDOL")**
	Kept confidential until 25/09/01.
IT-01-48	Sefer Halilović : v.
15/01/02	**BLAGOJEVIĆ ET AL. ("SREBRENICA")**
	Joined with the Momir Nikolić and Obrenović cases on 27/05/02; Last amended joinder indictment 26/05/03. Nikolić and Obrenović later separated following plea agreements.
IT-02-53; IT-02-56; IT-02-60/1/2	Vidoje Blagojević : v., gen., c., *Kept confidential until 10/08/01.*
	Dragan Jokić : c., v., *30/05/01, Kept confidential until 15/08/01.*
IT-02-60/2	Dragan Obrenović : c., *Kept confidential until 15/04/01; Last amended 23/05/03 following plea agreement. Case completed.*
IT-02-60/1	Momir Nikolić : c., *Last amended 09/05/03 following plea agreement.*
26/03/02	**POPOVIĆ ("SREBRENICA")**
	Kept confidential until 21/10/02.
IT-02-57	Vujadin Popović : gen., v., c. *Remains at large.*
26/03/02	**BEARA ("SREBRENICA")**
	Kept confidential until its disclosure on 21/10/02.
IT-02-58	Ljubiša Beara : gen., v., c. *Remains at large.*

Date/No.	*Case details*
16/04/02	**MRĐA ("VLASIĆ MOUNTAIN")**
	Kept confidential until 14/06/02.
IT-02-59	Darko Mrđa : c., v. *Last amended 24/07/03 following plea agreement.*
03/07/02	**DERONJIĆ ("GLOGOVA")**
	Kept confidential until 08/07/02.
IT-02-61	*Last amended 30/09/03 following plea agreement.*
	Miroslav Deronjić : v., c.
06/09/02	**DRAGO NIKOLIĆ ("SREBRENICA")**
	Kept confidential until 21/10/02.
IT-02-63	Drago Nikolić : gen., v., c. *Remains at large.*
06/09/02	**BOROVČANIN ("SREBRENICA")**
	Kept confidential until 27/09/02.
IT-02-64	Ljubomir Borovčanin : gen., v., c. *Remains at large.*
17/09/02	**# BOBETKO ("MEDAK POCKET")**
	Kept confidential until 20/11/02.
IT-02-62	Janko Bobetko : c., v. *Accused deceased 29/04/03.*
21/11/02	**MEJAKIĆ ET AL. ("OMARSKA CAMP")**
	Original Mejakić et al. indictment (IT-95-4) joined with Fuštar et al. indictment (IT-95-8/1) on 21/11/02.
IT-02-65;	Željko Mejakić : v., c.
IT-02-65/1	Momčilo Gruban : v., c.
	Dušan Fuštar : v., c.
	Dušan Knežević : v., c.
	Predrag Banović : c. *Last amended 26/06/03 following plea agreement. Case completed.*
24/01/03	**LIMAJ ET AL.**
	Kept confidential until 18/02/03.
IT-03-66	*Last amended 12/02/04.*
	Fatmir Limaj : v., c.
	Haradin Bala : v., c.

Date/No.	*Case details*
	Isak Musliu : v., c.
	Agim Murtezi : *Charges withdrawn 28/14/03.*
14/02/03	**ŠEŠELJ**
IT-03-67	Vojislav Šešelj : v., c.
28/03/03	**ORIĆ**
	Kept confidential until 11/04/03.
IT-03-68	*Last amended 23/07/03.*
	Naser Orić : v.
01/05/03	**STANIŠIĆ and SIMATOVIĆ**
	Last amended 09/12/03.
	Jovica Stanisić : v., c.
IT-03-69	Franko Simatović : v., c.
26/09/03	**PAVKOVIĆ ET AL.**
	Kept under seal until 20/10/03.
	Nebojša Pavković : v., c. *Remains at large.*
IT-03-70	Vladimir Lazarević : v., c. *Remains at large.*
	Vlastimir Đorđević : v., c.. *Remains at large.*
	Sreten Lukić : v., c. *Remains at large.*
06/11/03	**BABIĆ**
IT-03-72	Milan Babić : v. c.
24/02/04	**ČERMAK and MARKAČ**
	Kept confidential until 8 March 2004.
IT-03-73	Ivan Čermak : v., c.
	Mladen Markač : v., c.
04/03/04	**PRLIĆ ET AL.**
	Kept confidential until 02/04/04.
	Jadranko Prlić : g., v., c.
IT-04-74	Bruno Stojić : g., v., c.
	Slobodan Praljak : g., v., c.
	Milivoj Petković : g., v., c.

Date/No.	*Case details*
	Valentin Ćorić : g., v., c.
	Berislav Pušić : g., v., c.
04/06/04	**HADŽIĆ**
IT-04-75	*Kept confidential unil 16/07/04.*
	Goran Hadžić : c., v.
20/05/04	**NORAC**
IT-04-76	Mirko Norac : v. c.

Notes

g. : grave breach of the Geneva Conventions of 1949 (article 2 of the Statute of the Tribunal).

v. : violation of the laws or customs of war (article 3 of the Statute of the Tribunal).

gen. : genocide (article 4 of the Statute of the Tribunal).

c. : crime against humanity (article 5 of the Statute of the Tribunal).

# : case completed or (where indicated) indictment replaced.

Last amended dates: where the last amended date appears directly under the main title of the case, the date refers to the last date of amendment of an indictment naming all the accused. Where the last amended date appears after the name of an individual, the date refers to a subsequent indictment naming that accused only.

At the end of reporting period, there were 47 active cases covering 82 individuals. Twenty of those individuals remained at large. The rest were in some stage of proceedings before the Tribunal.

Annex II

List of persons detained at the United Nations Detention Unit

(56 persons are currently incarcerated, 5 are on provisional release; and, during the reporting period, 2 were discharged and 3 were released)

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
Zdravko MUCIĆ Mucić et al. case (IT-96-21) Date of arrest: 18/3/96 (Vienna, Austria) Date committed to UNDU: 9/04/96 Initial appearance: 11/4/96 Date of discharge: 18/6/2003	Goran JELISIĆ Jelisić and Ćešić (IT-95-10) Date of arrest by SFOR: 22/1/98 (Bijeljina, Bosnia and Herzegovina) Date committed to UNDU: 22/01/98 Initial appearance: 26/1/98 Date of discharge: 29/5/2003	Tihomir BLAŠKIĆ Blaškić case (IT-95-14) Date of voluntary surrender: 1/4/96 Date committed to UNDU: 1/04/96 Initial appearance: 3/4/96 Released: 02/08/04	Vinko MARTINOVIĆ Naletilić and Martinović case (IT-98-34) Date of transfer by the Croatian authorities: 9/8/99 Date committed to UNDU: 9/08/99 Initial appearance: 12/8/99
Hazim DELIĆ Mucić et al. case (IT-96-21) Date of arrest: 2/5/96 in Bosnia and Herzegovina Date committed to UNDU: 13/06/96 Initial appearance: 18/6/96 Date of discharge: 9/7/2003	Mladen RADIĆ Kvočka et al. case (IT-98-30/1) Date of arrest by SFOR: 8/4/98 Date committed to UNDU: 9/04/98 Initial appearance: 14/4/98	Dario KORDIĆ Kordić and Čerkez case (IT-95-14/2) Date of voluntary surrender: 6/10/97 Date committed to UNDU: 6/10/97 Initial appearance: 8/10/97	Momir TALIĆ Talić case (IT-99-36/1) Date of arrest and transfer by Austria: 25/8/99 Date committed to UNDU: 25/08/99 Initial appearance: 31/8/99 Deceased on Provisional release: 28/05/2003
Esad LANDŽO Mucić et al. case (IT-96-21) Date of arrest: 2/5/96 in Bosnia and Herzegovina Date committed to UNDU: 13/06/96 Initial appearance: 18/6/96 Date of discharge: 9/07/2003	Milojica KOS Kvočka et al. case (IT-98-30/1) Date of arrest by SFOR: 28/5/98 Date committed to UNDU: 29/05/98 Initial appearance: 2/6/98 Date of discharge: 31/7/2002	Mario ČERKEZ Kordić and Čerkez case (IT-95-14/2) Date of voluntary surrender: 6/10/97 Date committed to UNDU: 6/10/97 Initial appearance: 8/10/97	Mladen NALETILIĆ Naletilić and Martinović case (IT-98-34) Date of transfer by Croatian authorities: 21/3/00 Date committed to UNDU: 21/03/00 Initial appearance: 24/3/00

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
Ranko ĆEŠIĆ Jelisić and Ćešić case (IT-95-10/1) Date of arrest by Serbia: 25/05/02 Date committed to UNDU: 17/06/02 Initial appearance: 20/06/02	Milorad KRNOJELAC Krnojelac case (IT-97-25) Date of arrest by SFOR: 15/6/98 Date committed to UNDU: 15/06/98 Initial appearance: 18/6/98	Milan SIMIĆ Simić case (IT-95-9/2) Date of voluntary surrender: 14/02/98 Date committed to UNDU: 13/08/01 Initial appearance: 17/02/98 Date of discharge: 04/11/03	Milomir STAKIĆ Stakić case (IT-97-24) Date of transfer by authorities of the former Yugoslavia: 23/3/01 Date committed to UNDU: 23/03/01 Initial appearance: 28/3/01
Milan MILUTINOVIĆ Milutinović et al. case (IT-99-37) Date of arrest by Serbia: 20/01/03 Date committed to UNDU: 20/01/03 Initial appearance: 27/01/03	Radislav KRSTIĆ Krstić case (IT-98-33-A) Date of arrest by SFOR: 2/12/98 Date committed to UNDU: 3/12/98 Initial appearance: 7/12/98	Miroslav TADIĆ Simić et al. case (IT-95-9) Date of voluntary surrender: 14/02/98 Date committed to UNDU: 3/09/01 Initial appearance: 17/02/98	Slobodan MILOŠEVIĆ Milošević et al. case (IT-02-54) Date of transfer by authorities of the Federal Republic of Yugoslavia: 28/6/01 Date committed to UNDU: 29/06/01 Initial appearance: 3/7/01:29/11/01:11/12/01
Fatmir LIMAJ Limaj et al. case (IT-03-66) Date of arrest by Slovenia: 04/03/03 Date committed to UNDU: 4/03/03 Initial appearance: 05/03/03	Radoslav BRĐANIN Brđanin and Talić case (IT-99-36) Date of arrest by SFOR: 6/7/99 Date committed to UNDU: 6/07/99 Initial appearance: 12/7/99	Simo ZARIĆ Simić et al. case (IT-95-9) Date of voluntary surrender: 24/02/98 Date committed to UNDU: 3/09/01 Initial appearance: 26/02/98 Date of discharge: 28/01/04	Jean KAMBANDA Kambanda case (ITR-97-23) Date committed to UNDU: 8/11/02 Date of discharge: 1/07/03

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
Jovica STANIŠIĆ Stanišić and Šimatović case (IT-02-69) Date of arrest by Serbia: 13/03/03 Date committed to UNDU: 11/06/03 Initial appearance: 03/06/03	Radomir KOVAČ Kunarac et al. case (IT-96-23 & 23/1) Date of arrest by SFOR: 2/8/99 Date committed to UNDU: 2/08/99 Initial appearance: 4/08/99 Date of discharge: 28/11/2002	Dragoljub KUNARAC Kunarac et al. case (IT-96-23 & 23/1-A) Date of voluntary surrender: 4/3/98 Date committed to UNDU: 5/03/98 Initial appearance: 9/03/98 Date of discharge: 12/02/2002	Predrag BANOVIĆ Mejakić et al. case (IT-02-65/1) Date of transfer by authorities of the Federal Republic of Yugoslavia: 09/11/01 (Serbia) Date committed to UNDU: 9/11/01 Initial appearance: 16/11/01
Franko SIMATOVIĆ Stanišić and Simatović case (IT-02-69) Date of arrest by Serbia: 13/03/03 Date committed to UNDU: 30/05/03 Initial appearance: 02/06/03	Stanislav GALIĆ Galić case (IT-98-29) Date of arrest by SFOR: 20/12/99 Date committed to UNDU: 21/12/99 Initial appearance: 29/12/99	Zoran ŽIGIĆ Kvočka et al. case (IT-98-30/1) Date of voluntary surrender: 16/4/98 Date committed to UNDU: 16/04/98 Initial appearance: 20/04/98	Georges RUTAGANDA Rutaganda case (ICTR-96/3) Date committed to UNDU: 27/02/03 Date of discharge: 15/04/03
Ivica RAJIĆ Rajić case (IT-95-12) Date of arrest by Croatia: 05/04/03 Date committed to UNDU: 24/06/03 Initial appearance: 27/06/03	Zoran VUKOVIĆ Kunarac et al. case (IT-96-23 & 23/1) Date of arrest by SFOR: 23/12/99 Date committed to UNDU: 24/12/99 Initial appearance: 29/12/99 Date of discharge: 28/11/02	Biljana PLAVŠIĆ Plavšić case (IT-00-39 & 40/1) Date of voluntary surrender: 10/01/01 Date committed to UNDU: 14/12/02 Initial appearance: 11/01/01 Date of discharge: 26/6/03	

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
Miroslav RADIĆ Radić and Šljivančanin case (IT-95-13/1) Date of arrest by Serbia: 17/05/03 Date committed to UNDU: 17/05/03 Initial appearance: 21/05/03	Mitar VASILJEVIĆ Vasiljević case (IT-98-32) Date of arrest by SFOR: 25/10/00 Date committed to UNDU: 25/01/00 Initial appearance: 28/1/00 Date of discharge: 06/07/04	Blagoje SIMIĆ Simić et al. case (IT-95-9) Date of voluntary surrender: 12/3/01 Date committed to UNDU: 12/03/01 Initial appearance: 15/3/01	
Veselin ŠLJIVANČANIN Šljivančanin case (IT-95-13a) Date of arrest by Serbia: 13/06/03 Date committed to UNDU: 01/07/03 Initial appearance: 03/07/03	Dragoljub PRCAČ Kvočka et al. case (IT-98-30/1) Date of arrest by SFOR: 5/3/00 Date committed to UNDU: 5/03/00 Initial appearance: 10/3/00	Dragan JOKIĆ Blagojević et al. case (IT-02-60) Date of voluntary surrender: 15/08/01 Date committed to UNDU: 15/08/01 Initial appearance: 21/08/01	
Mitar RASEVIĆ Todović and Rasević case (IT-97-25/1) Date of arrest: 15/08/03 Date commited to UNDU: 15/08/03 Initial appearance: 18/08/03	Momčilo KRAJIŠNIK Krajišnik case (IT-00-39 & 40-PT) Date of arrest by SFOR: 3/4/00 Date committed to UNDU: 3/04/00 Initial appearance: 7/4/00	Pavle STRUGAR Strugar case (IT-01-42) Date of voluntary surrender: 21/10/01 Date committed to UNDU: 21/10/01 Initial appearance: 25/10/01	
	Dragan NIKOLIĆ Nikolić case (IT-94-2) Date of arrest by SFOR: 21/4/00 Date committed to UNDU: 22/04/00 Initial appearance: 28/4/00	Paško LJUBIČIĆ Ljubičić case (IT-00-41) Date of voluntary surrender: 21/11/01 Date committed to UNDU: 26/11/02 Initial appearance: 30/11/01	

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
	Dragan OBRENOVIĆ Obrenović case (IT-02-60/2) Date of arrest by SFOR: 15/04/01 Date committed to UNDU: 15/04/01 Initial appearance: 18/04/2001 Date of discharge: 18/06/04	Dušan FUŠTAR Mejakić et al. case (IT-02-65) Date of voluntary surrender: 31/01/2002 Date committed to UNDU: 31/01/02 Initial appearance: 6/02/02	
	Vidoje BLAGOJEVIĆ Blagojević et al. case (IT-02-60) Date of arrest by SFOR: 10/08/01 Date committed to UNDU: 10/08/01 Initial appearance: 16/08/01	Dragoljub OJDANIĆ Milutnović et al. case (IT-99-37) Date of voluntary surrender: 25/04/02 Date committed to UNDU: 25/04/02 Initial appearance: 26/04/02	
	Momir NIKOLIĆ Momir Nikolić case (IT-02-60/1) Date of arrest by SFOR: 1/4/02 Date committed to UNDU: 2/04/02 Initial appearance: 3/4/02	Nikola ŠAINOVIĆ Milutnović et al. case (IT-99-37) Date of voluntary surrender: 2/05/02 Date committed to UNDU: 2/05/02 Initial appearance: 3/05/02	
	Miroslav DERONJIĆ Deronjić case (IT-02-61) Date of arrest by SFOR: 07/07/02 Date committed to UNDU: 8/06/02 Initial appearance: 10/07/02	Milan MARTIĆ Martić case (IT-95-11) Date of voluntary surrender: 15/05/02 Date committed to UNDU: 15/05/02 Initial appearance: 21/05/2002	

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
	Darko MRĐA **Mrđa case** **(IT-02-59)** **Date of arrest by SFOR: 13/06/02** **Date committed to UNDU: 13/06/02** **Initial appearance: 17/06/02**	**Mile MRKŠIĆ** **Mrkšić case** **(IT-95-13/1)** **Date of voluntary surrender: 15/05/02** **Date committed to UNDU: 15/05/02** **Initial appearance: 16/05/2002**	
	Radovan STANKOVIĆ **Stanković case** **(IT-96-23/2)** **Date of arrest by SFOR: 09/07/02** **Date committed to UNDU: 10/07/02** **Initial appearance: 12/07/2002**	**Dušan KNEŽEVIĆ** **Mejakić et al. case** **(IT-02-65)** **Date of voluntary surrender: 18/05/2002** **Date committed to UNDU: 18/05/02** **Initial appearance: 24/05/02**	
	Agim MURTEZI **Limaj et al. case** **(IT-03-66)** **Arrested by KFOR: 02/03** **Date committed to UNDU: 18/02/03** **Initial appearance: 20/02/03** **Released: 20/02/03**	**Vojislav ŠEŠELJ** **Šešelj case** **(IT-03-67)** **Date of voluntary surrender: 20/01/03** **Date committed to UNDU: 24/02/03** **Initial appearance: 27/01/03**	
	Haradin BALA **Limaj et al. case** **(IT-03-66)** **Date of arrest by KFOR: 02/03** **Date committed to UNDU: 18/02/03** **Initial appearance: 20/02/03**	**Željko MEJAKIĆ** **Mejakić et al. case** **(IT-02-65)** **Date of voluntary surrender: 04/07/03** **Date committed to UNDU: 4/07/03** **Initial appearance: 07/07/03**	

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
	Isak MUSLIU Limaj et al. case (IT-03-66) Date of arrest by KFOR: 02/03 Date committed to UNDU: 18/02/03 Initial appearance: 20/02/03	Milan BABIĆ Babić case (IT-03-72) Date of voluntary surrender: 26/11/03 Date committed to UNDU: 26/11/03 Initial appearance: 26/11/03	
	Naser ORIĆ Orić case (IT-03-66) Date of arrest by SFOR: 10/04/03 Date committed to UNDU: 11/04/03 Initial appearance: 15/04/03	Ivan ČERMAK Čermak & Markač case (IT-03-73) Date of voluntary surrender: 11/03/04 Date committed to UNDU: 11/03/04 Initial appearance: 12/03/04	
		Jadranko PRLIĆ Prlić et al. case (IT-04-74) Date of voluntary surrender: 05/04/04 Date committed to UNDU: 05/04/04 Initial appearance: 06/04/04	
		Bruno STOJIĆ Prlić et al. case (IT-04-74) Date of voluntary surrender: 05/04/04 Date committed to UNDU: 05/04/04 Initial appearance: 06/04/04	

Arrested (12)	*Detained by international forces (23)*	*Surrendered voluntarily (28)*	*Transferred by States (8)*
		Slobodan PRALJAK Prlić et al. case (IT-04-74) Date of voluntary surrender: 05/04/04 Date committed to UNDU: 05/04/04 Initial appearance: 06/04/04	
		Milivoj PETKOVIĆ Prlić et al. case (IT-04-74) Date of voluntary surrender: 05/04/04 Date committed to UNDU: 05/04/04 Initial appearance: 06/04/04	
		Valentin ĆORIĆ Prlić et al. case (IT-04-74) Date of voluntary surrender: 05/04/04 Date committed to UNDU: 05/04/04 Initial appearance: 06/04/04	
		Berislav PUŠIĆ Prlić et al. case (IT-04-74) Date of voluntary surrender: 05/04/04 Date committed to UNDU: 05/04/04 Initial appearance: 06/04/04	

List of persons on provisional release

Arrested (0)	*Detained by international forces and released (1)*	*Surrendered voluntarily On provisional release (3)*	*Transferred by States (1)*
	Miroslav KVOČKA Kvočka et al. case (IT-98-30-1) Date of arrest by SFOR: 8/4/98 Date committed to UNDU: 9/04/98 Initial appearance: 14/4/98 Provisionally released: 19/12/03 and 29/03/04	Momčilo GRUBAN Mejakić et al. case (IT-02-65) Date of voluntary surrender: 02/5/02 Date committed to UNDU: 2/05/02 Initial appearance: 10/05/2002 Provisionally released: 17/07/02	Vladimir KOVAČEVIĆ Kovačević case (IT-01-42/2) Date of transfer by Serbia and Montenegro: 23/10/03 Date committed to UNDU: 23/10/03 Initial appearance: 03/11/03 Provisionally released: 07/06/04
		Sefer HALILOVIĆ Halilović. case (IT-01-48) Date of voluntary surrender: 25/09/01 Date committed to UNDU: 25/09/01 Initial appearance: 27/09/01 Provisionally released: 14/12/01	
		Rahim ADEMI Ademi case (IT-01-46) Date of voluntary surrender: 25/07/01 Date committed to UNDU: 25/07/01 Initial appearance: 26/07/01 Provisionally released: 20/02/02	

Annex III

Persons publicly indicted by the Tribunal who remain at large

(21 persons)

Name of the accused	*Date of indictment*	*Last known place of residence*
Goran Borovnica	13/2/95	Bosnia and Herzegovina (Republika Srpska)
Radovan Karadžić	25/7/95, 16/11/95	Bosnia and Herzegovina (Republika Srpska)
Ratko Mladić	25/7/95, 16/11/95	Bosnia and Herzegovina (Republika Srpska)/Serbia and Montenegro
Gojko Janković	26/6/96	Bosnia and Herzegovina (Republika Srpska, Foča)
Dragan Zelenović	26/6/96	Bosnia and Herzegovina (Republika Srpska, Foča)
Milan Lukić	26/08/98	Place of residence unknown
Savo Todović	17/06/97	Serbia and Montenegro
Sredoje Lukić	26/08/98	Place of residence unknown
Vinko Pandurević	2/11/98	Bosnia and Herzegovina (Republika Srpska)
Dragomir Milošević	26/03/99	Serbia and Montenegro
Ante Gotovina	08/06/01	Croatia
Stojan Župljanin	17/12/00	Bosnia and Herzegovina (Republika Srpska)
Ljubisa Beara	26/03/02	Bosnia and Herzegovina (Republika Srpska)/Serbia and Montenegro
Vujadin Popović	26/03/02	Bosnia and Herzegovina (Republika Srpska)/Serbia and Montenegro
Ljubomir Borovcanin	06/09/02	Bosnia and Herzegovina (Republika Srpska)/Serbia and Montenegro
Drago Nikolić	06/09/02	Bosnia and Herzegovina (Republika Srpska)/Serbia and Montenegro
Sreten Lukić	26/09/03	Serbia and Montenegro
Vladimir Lazarević	26/09/03	Serbia and Montenegro
Vlastimir Đorđević	26/09/03	Unknown
Nebojša Pavković	26/09/03	Serbia and Montenegro
Goran Hadžić	04/06/04	Unknown